WHITE HOUSE CONTACTS WITH TREASURY/RTC OFFICIALS ABOUT "WHITEWATER"-RELATED MATTERS—PART 2

Y 4. B 22/1: 103-157

White House Contacts With Treasury/...

HEARING

BEFORE THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

JULY 28, 1994

Printed for the use of the Committee on Banking, Finance and Urban Affairs

Serial No. 103–157

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WHITE HOUSE CONTACTS WITH TREASURY/RTC OFFICIALS ABOUT "WHITEWATER"-RELATED MATTERS—PART 2

THURSDAY, JULY 28, 1994

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room 2128, Rayburn House Office Building, Hon. Henry B. Gonzalez [chairman of the committee] presiding.

Present: Chairman Gonzalez, Representatives Neal, LaFalce, Vento, Schumer, Frank, Kanjorski, Kennedy, Flake, Mfume, Waters, LaRocco, Orton, Bacchus of Florida, Klein, Maloney, Deutsch, Gutierrez, Rush, Roybal-Allard, Barrett, Furse, Velazquez, Wynn, Fields, Watt, Hinchey, Dooley, Klink, Fingerhut, Leach, McCollum, Roukema, Bereuter, Ridge, Roth, McCandless, Baker, Nussle, Thomas, Johnson, Pryce, Linder, Knollenberg, Lazio, Grams, Bachus of Alabama, Huffington, Castle, King, and Sanders.

The CHAIRMAN. The committee will please come to order.

I'll take advantage of this moment here to allow Mr. Leach to converse, and to remind the members that we are here in keeping with House Resolution 394, and in accordance with that resolution, the bipartisan leadership agreement as to the scope of this hearing. This hearing deals only with the Treasury, White House, and RTC contacts regarding the so-called Whitewater matter.

The Chair wants to express its gratitude to the members, because generally up to now I believe there's a recognition that this committee was selected by the leadership to handle this matter, and the only qualification that I, as chairman, preset with the Speaker, when he announced the decision, was that I would not abide any erosion or attack on the integrity of the committee, subject to the rules of the House and the rules of the committee, and only then.

Therefore, there have been questions we've decided in the last hearing, in which some displeasure was announced with the fact that, in the opinion of some members, the scope was too narrow. But I want to remind the members again that we're operating under a mandate of the House known as House Resolution 394, not the committee setting forth the parameters, as I have gone into that in the past, and the limitations in extent and power of the committee. So with that, I will recognize Mr. Leach if he has any statement to make.

Mr. LEACH. I do, Mr. Chairman.

Mr. Chairman, Tuesday we were treated to a remarkable performance by a remarkable individual. The White House counsel cleared the White House staff of ethical improprieties associated with its contacts with the Treasury Department, the Resolution Trust Corporation and, implicitly, with the President.

Mr. Cutler's presentation and responses to questions were masterful and compelling—if you accept the fundamental premise on which they were based.

The minority does not.

Seldom in the debates that reverberate through these Halls has the difference in principle that divides the majority from the minority been as clear.

What divides us is not the possession of differing information, but the use of very different principles in the evaluation of that information.

Perhaps the most profound illustration of this phenomenon in the history of Western thought occurred in the shift from the Ptolemaic to Copernican view of the cosmos. Ptolemy was a second century A.D. Alexandrian astronomer and mathematician who, after careful observation of the heavens, concluded that the Earth was the center about which the entire universe revolved. Because of Ptolemy's erudition and the way in which his theory made sense of the everyday observations of everyday people, his view was considered authoritative for over 1,000 years.

This all changed when the Polish astronomer Copernicus in the 16th century came up with the theory that the Earth and all the planets revolve around the Sun. On the basis of this revolutionary principle, the same facts and observations were seen in an entirely different way, and a whole universe of meaning, the Ptolemaic, was called into question.

It may be an exaggeration to draw analogies in this context to mankind's understanding of the heavens, but the one great service Tuesday's hearings performed was to place in stark contrast the principles the majority and minority are applying to the matter before us.

Mr. Cutler's exculpation of the White House in its conduct internally and in its contacts with the Treasury and the RTC is based on the premise that the President occupies a privileged position within our system of governance. From this premise follows what Mr. Cutler called the "heads-up" principle, a principle he says, and I quote, "applies with particular force to criminal referrals by the RTC or other agencies to the Department of Justice," unquote.

If this premise with its attendant principle is accepted, then it follows—as the majority will undoubtedly state repeatedly throughout these hearings—that the White House, Treasury, and RTC staff did nothing unethical in this entire matter.

But the minority believes it is Ptolemaic politics to suggest that the White House is the gravitational center of the American legal system.

We believe the administration misunderstands the nature of the American Revolution, which ruptured multimillenia perception and precedent in establishing a constitutional checks and balances system, and the nature of the American experiment with democracy,

which is singularly premised on the notion that everyone is equal before the law.

In America, there are no pharaohs or kings.

What is under review is a fundamental law-and-order as well as constitutional issue.

In law enforcement, little is more inappropriate than to give insider notification to individuals who may be parties to criminal probes. In the case of a powerful political figure, insider notification provides that individual the option either to attempt to sidetrack the investigation and/or frustrate it by warning other possible targets of the probe or by causing the possible destruction of documents or other evidence.

How this might come about is illustrated by Mr. Cutler's exchange with Mr. Lazio and Mr. King Tuesday. Mr. Cutler stated that Mr. Lindsey had no knowledge of the possibility that Governor Tucker might be referenced in the proposed criminal referrals until October 7, 1993, the day before the RTC sent them to the Department of Justice, and the day after the President met with the Governor.

Actually, according to the handwritten notes of White House Associate Counsel Cliff Sloan, Ms. Hanson, the Treasury general counsel, informed Mr. Sloan on September 30 that Governor Tucker was a subject of the criminal referrals, and that the 1985 Clinton campaign was listed as a coconspirator.

According to the record, Mr. Sloan briefed Mr. Lindsey, who then briefed the President on the referrals prior to the President meeting with the Governor.

Whether any obstructive effort was implicitly undertaken within the government in the wake of the insider notification that occurred, clearly it, as Mr. Cutler noted, didn't work. Whether any documents were tampered with, we don't know. What we do know is that the 1984 Clinton gubernatorial campaign records are no longer available and that the whole Whitewater affair has been hallmarked by a hide, and—at least with regard to certain records in Arkansas—shred standard.

What we also know is that the President chose to meet with Governor Tucker, an individual who any lawyer with an awareness of the proposed reforms should have been ethically advised against meeting at that time.

The implications of insider advantage being given any American, even the President, is precisely why it was unethical for Treasury officials to brief the White House, and precisely why, once informed, the White House counsel's office was ethically obligated not to brief or precipitate the briefing of the President.

These notifications gave a single American a privileged position under the law, and represented clear violations of then existing ethical rules, most specifically, 3 CFR 100.735, which stipulates that a White House employee, and I quote, "shall avoid an action . . . which might result in or create the appearance of . . . giving preferential treatment to any person . . . losing complete independence or impartiality . . . making a government decision outside official channels . . . or . . . affecting adversely the confidence of the public in the integrity of the government."

I thank the chairman.

The CHAIRMAN. The Chair will state that it is caught a little bit by surprise by the gentleman's extensive statement. I had forgone an opening statement, but in lieu of that, let me just comment.

I will reserve for the record my observations on the history of the Ptolemaic world, and point out to the gentleman that in geometry, foremost mathematicians like Thales was most famous for saying that what one fool could do, another could, too, always—in bringing forth the geometric basic truths, would always say QED, quod erat demonstrandum; that is, it remains to be proved, and now it has been proved.

And what the gentleman has said is given his interpretation and prognostication of witnesses yet to be heard or those who have been heard. And I was hoping that that would have been a summing up at the end of the witnesses.

But nevertheless, I respect the gentleman's entitlement to an opening statement, and without any further ado——

Mr. BACHUS OF ALABAMA. Mr. Chairman.

The CHAIRMAN. Yes.

Mr. BACHUS OF ALABAMA. I have your witness list for today's panels. Is it—am I correct in assuming that the second panel will be made up of 10 witnesses?

The CHAIRMAN. That's correct.

Mr. BACHUS OF ALABAMA. They will be examined as a panel?

The CHAIRMAN. Yes.

Mr. BACHUS OF ALABAMA. Mr. Chairman and members of the committee, what that would do is it would—if each member of this committee wanted to ask each witness a question and receive an answer, that would mean that we had approximately 30 seconds to examine each witness, each member, which would——

The CHAIRMAN. Well, let——

Mr. BACHUS OF ALABAMA. Every member of this committee would agree——

The CHAIRMAN. Let me tell the gentleman right now, because otherwise we're going to be here. We are going to follow on the rules. And the 5-minute rule is a mandate on us, and it will be rigorously interpreted as we have in the past. It won't be the first time we've had panels of this size.

Mr. BACHUS OF ALABAMA. Mr. Chairman, I have a motion.

The CHAIRMAN. I will not recognize the gentleman at this time for that—for any kind of motion.

Mr. BACHUS OF ALABAMA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Well, state your inquiry.

Mr. BACHUS OF ALABAMA. Mr. Chairman, as you have stated that you will offer a panel this afternoon of 10 members, and will you give each member of this body—you will limit each member of this body to 5 minutes, which in effect restricts our testimony to 30 seconds per witness in asking questions and eliciting—and having their response, I would move that the afternoon panel, the panel of——

The CHAIRMAN. The gentleman is not recognized for a motion. The gentleman is——

Mr. BACHUS OF ALABAMA. Mr. Chairman, when will I——

The CHAIRMAN. Well, the gentleman has not stated a parliamentary inquiry. Therefore, the gentleman will cease and be considered out of order. And let the Chair answer whatever semblance of parliamentary aspect you have.

Mr. BACHUS OF ALABAMA. Would it be possible for me to offer a motion, Mr. Chairman?

The CHAIRMAN. The gentleman is not recognized for that purpose.

Mr. LAFALCE. Mr. Chairman, may we have regular order and hear from the witnesses scheduled to testify before the committee today?

The CHAIRMAN. The gentleman is out of order. If he insists on raising his voice, he's out of order.

Now I trust the gentleman—I know the gentleman is new here; he is a freshman. And he has concluded something that may or may not happen. The rules prescribe that every one of the 51 members of this committee be entitled to 5 minutes to question a witness or a panel. Then we'll come to the gentleman's question at the end of that period. So I ask the gentleman to cooperate.

Mr. BACHUS OF ALABAMA. Mr. Chairman, may I ask my parliamentary inquiry?

The CHAIRMAN. Well, I've answered that parliamentary inquiry; and the gentleman was going beyond that in seeking to offer a motion, and I do not recognize him.

Mr. BACHUS OF ALABAMA. Mr. Chair——

The CHAIRMAN. I recognize Mr. Leach for a parliamentary inquiry.

Mr. LEACH. If all the gentleman intended was to offer a motion to divide the panels this afternoon to two, at what point would such a motion be appropriate to be offered, or would there be a time it would be appropriate to be offered?

The CHAIRMAN. I believe that, in answer to your inquiry, that will be a matter that would be proper at the time each member of this 51-member committee has had his opportunity to ask, during the 5-minute rule, his question, his turn. Then we'll come to that.

And that will be also a matter of judgment as to whether the will of the committee is to continue or not, and how we continue. But the Chair has given due notice of the witnesses in accordance with the rules on this hearing. And, therefore, I am going to implore——

Mr. KING. Mr. Chairman, I have an inquiry, Mr. Chairman, parliamentary inquiry. You said we have notice.

My inquiry, isn't it a fact that we did not receive notice until 2 days ago there's going to be a panel of 10 witnesses; isn't—is that appropriate notice to conduct a true hearing?

The CHAIRMAN. No, sir, appropriate notice was given as to time and hour and day. The list of witnesses——

Mr. KING. Mr. Chairman, I don't believe 2 days' notice on the eve of the hearing, to the morning of the hearings, is appropriate notice.

The CHAIRMAN. Mr. Frank.

Mr. FRANK. Mr. Chairman, parliamentary inquiry.

Am I incorrect, I'm now in doubt, that under rule 11, the minority will have a chance to have a day when it can call witnesses as

long as they are not ruled out by Mr. Fiske's strictures, and the minority will have a chance to call witnesses when it wants to.

The CHAIRMAN. The Chair will respect every rule and might point out the gentleman brings up that issue, and also under the rules and the precedents.

Mr. BACHUS OF ALABAMA. Mr. Chairman, may I respond?

The CHAIRMAN. The gentleman is not recognized. Will he quit interrupting and allow us to proceed in an orderly and expeditious fashion? If the gentleman is really worried about time, why don't we get on with this and go on into the witnesses?

Now, the Chair is not going to tolerate any further intrusions and obvious obstructions. And I deplore the gentleman's insistence on being an obstructive force.

Mr. BACHUS OF ALABAMA. Mr. Chairman, I am——

The CHAIRMAN. And I think the gentleman at this time should accede to the same comportment as 50 members have up to now.

Mr. BACHUS OF ALABAMA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman is not recognized.

Mr. Frank.

Mr. FRANK. Mr. Chairman, I want to make it clear, I just wanted to make clear, because the way the questions came, I thought maybe there was some question that we should be—have it on the record, that under rule 11, which will be in effect, at the conclusion of the witnesses that you've arranged, the minority has a right to have a day of hearings and to call witnesses. I assume they could call witnesses one at a time, they might like some witnesses drawn and quartered, they could have them in four different pieces, they could have them anyway they want.

So if the question is, will the minority get a chance to have witnesses in some other constellation, to revert to the metaphor of my friend from Iowa, they could have them in any order they want. They could have one guy sitting in the middle and everyone revolving around them; or they could have everybody even. But the minority will be able under rule 11, as I understand it, to call whatever witnesses they want in whatever order and talk to them all day. They could ask them questions, they could ask them whatever they want.

The CHAIRMAN. The gentleman is correct, and the Chair will state that under the precedents, as far as we have established where this rule has been invoked, it never has in our committee as far as I know, the request should have been made at the first day of the hearings, day before yesterday.

However, the Chair is never one to depend on strict and absolute letters of precedent and rules, and will allow the minority, when it so seeks, to invoke rule 11 and recognize it and respect it. So let's proceed.

Mr. BAKER. Mr. Chairman.

The CHAIRMAN. The Chair recognizes the witness, Mr. Nussbaum.

Mr. BAKER. Mr. Chairman, I have no motion. I just wish to be recognized for a brief moment for the purpose of introducing a document into the record at this point relative to our proceedings. Could I do that without objection?

The CHAIRMAN. At this point, the gentleman is not recognized for that purpose.

Mr. BAKER. So I can't enter anything into the record?

The CHAIRMAN. No, at this point. The gentleman will please accept my judgment on that. We have documents here that I could have moved to put in the record at the outset, and I didn't for that reason.

Mr. BAKER. Could I make an opening statement?

The CHAIRMAN. No, sir. The Chair will not recognize members for that purpose. However, every member has an opportunity, if he so desires to exercise it, to present in writing at the outset an opening statement that will be printed in the record.

Mr. BAKER. Submit an opening statement for printing in the record?

The CHAIRMAN. Yes, sir.

Mr. BAKER. May I deliver that, or how do I go about that if I can't present it?

The CHAIRMAN. Oh, come on now, Mr. Baker, you're an expert.

Mr. BAKER. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Nussbaum, I am going to ask you to rise and raise your right hand.

[Witness sworn.]

The CHAIRMAN. Thank you, sir. You may be seated and proceed.

STATEMENT OF BERNARD W. NUSSBAUM, FORMER SPECIAL COUNSEL TO THE PRESIDENT

Mr. NUSSBAUM. Mr. Chairman, Mr. Leach, and members of the committee, my name is Bernard Nussbaum. I was counsel to the President of the United States from January 20——

Mr. FRANK. Mr. Chair, could the witness pull the microphone closer? I think people are having trouble hearing him. Just pull it closer.

Mr. NUSSBAUM. I was counsel to the President of the United States from January 20, 1993 until April 5, 1994.

I was deeply honored to serve my country. This was an extraordinarily challenging and rewarding position. I will never forget it, and I will always be grateful for the opportunity to serve.

We are here today to talk about issues which have significant consequences for the operation of the executive branch.

How should the White House counsel conduct himself or herself when a Federal agency is conducting an investigation that does, or might, involve the President?

Can there ever be any contact between that agency and the White House with respect to that investigation?

As you will see, I do not believe there is or can be any flat prohibition against contacts between the agency and the White House. Issues may arise in the context of such an investigation that implicate broader policy issues or, indeed, the proper functioning of the executive branch. In these circumstances, categorically to prohibit contacts with the White House would weaken the Presidency and would do violence to the President's role in our constitutional scheme.

I am here specifically to discuss with you and the members of your committee, Mr. Chairman, certain meetings I had with Treas-

ury officials in September and October 1993, and February 1994, relating to the Madison/Whitewater matter. I will describe to you in some detail what happened during those meetings.

But I also wish to make clear at the outset what did not happen. I did not, nor, as far as I am aware, did anyone else at the White House ever seek to direct the outcome of or interfere with that investigation. That would have been manifestly improper. That did not happen.

I wish to repeat that. I did not, nor, as far as I am aware, did anyone else in the White House ever seek to direct the outcome of or interfere with that investigation. That would have been manifestly improper. That did not happen.

In my view—and I hope yours when you understand what occurred—these meetings were proper. They were proper because, in ways I will describe, they facilitated the proper functioning of the executive branch. They enabled the White House to perform its official duties. They furthered legitimate public purposes.

I will explain to you what I was thinking as I took the actions I will describe. There are some who, in hindsight, disagree with my judgments, and I respect those disagreements. But I do hope you will come to understand that throughout my term in office, I sought to conduct myself in the highest traditions, in the best traditions of public service and of my profession. I believe I did so.

Let me now turn to the meetings and contacts.

On September 29, 1993, I attended a meeting with Treasury officials, including Treasury General counsel Jean Hanson, in my office. The meeting, convened by Treasury officials, not by people in the White House, concerned a report that the Department, the Treasury Department, was about to issue on the Waco incident. At the end of the meeting, Jean Hanson, the Treasury general counsel, drew me aside and asked to speak to me.

Ms. Hanson said—and we were alone at this point—that the RTC had made or was about to make criminal referrals to the Department of Justice related to an Arkansas savings and loan association. She told me that the Clintons were not objects of the referrals; that is, they were not potential defendants. She said that one of the referrals related to certain checks that had gone to a Clinton gubernatorial campaign, there was a question whether these were proper contributions, and the Clintons were mentioned as possible witnesses.

Ms. Hanson said she was telling me about the referrals because she believed—quite accurately as it turned out—that this information would soon leak to the press. She believed the White House should be in a position to respond effectively and properly to press inquiries.

I called in Cliff Sloan, a member of my staff, who had been at the Waco meeting. He was waiting right outside at this point. I asked Ms. Hanson to repeat to him what she had just told me. As she did that, she repeated what she told me, Ms. Hanson added that she thought Deputy Treasury Secretary Roger Altman might have previously sent me some material relating to this subject. I told her that I did not recall that, I had no such recollection. Sometime later, she told Mr. Sloan that she had been mistaken, and that Mr. Altman had not sent me any material with respect to the

subject, but that in March 1993, had faxed to me a 1992 *New York Times* article concerning the Clintons' Whitewater investment. I subsequently found a fax of that article in my files, but I do not recall receiving it in March 1993, or ever having read it.

I asked Mr. Sloan to be Ms. Hanson's point of future contact if she needed to speak further with us regarding press inquiries.

That concluded the discussion with Ms. Hanson. It lasted less than 5 minutes.

Following the discussion, Mr. Sloan or I told Bruce Lindsey what Ms. Hanson had told us. Mr. Lindsey, a senior White House advisor, at that time normally responded on behalf of the White House to press inquiries concerning Arkansas matters. That was the September 29 contact.

On October 14, 1993, a meeting took place in my office between Treasury and White House officials. Jack DeVore, an Assistant Treasury Secretary for Public Affairs, had called Mark Gearan, the Director of White House Communications, the day before to ask for the meeting. Mr. DeVore explained to Mr. Gearan that the Treasury had received press inquiries—there were leaks—related to the Madison referrals. He wanted to explain to us in the White House how the Treasury would respond. Mr. Gearan asked me if the meeting could take place in my office.

I was pleased with Mr. Gearan's call, because this was in accordance with our procedures. I had previously issued memoranda to the White House staff—similar to those that my predecessors had issued under Republican administrations and under Democratic administrations—counseling that contacts with agencies concerning pending adjudicative or investigative matters had to be cleared through the counsel's office. We recognized that such contacts were potentially sensitive; we recognized that, as a general proposition, they should not occur. However, there was no flat prohibition.

We recognized that sometimes a contact would be necessary to enable the White House to discharge its official functions. In each instance, the counsel's office was to be involved in order to ensure that the contact was limited to an exercise of official functions and did not entail any effort to interfere with or direct the outcome of the adjudication or investigation.

I agreed to the meeting that Mr. Gearan had described to me. I agreed because I believed it would serve an official function. It was important for the White House to understand what Treasury was going to say to the press, so that the White House could promptly and effectively respond to press inquiries it would inevitably receive.

The October 14 meeting in my office was attended by Mr. DeVore; Ms. Hanson, the lawyer from Treasury, and Josh Steiner from Treasury; and Mr. Lindsey, Mr. Gearan, myself, Mr. Sloan, and Neil Eggleston, another lawyer on my staff. I remember Mr. DeVore explaining that Jeff Gerth, a *New York Times* reporter, was aware of referrals to the Department of Justice in the Madison Guaranty matter. He was asking why the referrals had been forwarded to Washington, DC from Kansas City instead of directly to the U.S. Attorney's Office in Little Rock. Mr. Gerth apparently believed that the forwarding of the referrals to Washington was unusual and might suggest special treatment.

Mr. DeVore said he was going to advise Mr. Gerth that the referrals had been sent to the U.S. Attorney's Office in Little Rock before Mr. Gerth called. A question was raised whether it was usual for the RTC to confirm criminal referrals. Mr. DeVore said it was not usual, but it was done in certain circumstances. We were also told that Mr. Gerth was inquiring about and would likely ask the White House about the endorsements on four cashiers' checks from Madison Guaranty to the Clinton gubernatorial campaign. In essence, Mr. Chairman, Mr. Leach, and members of the committee, all we were told at this meeting is what the *New York Times* was saying to the Treasury, and what the Treasury was planning to say to the *New York Times*.

With respect to the referrals mentioned in the September 29 conversation and the October 14 meeting, let me make clear—let me make crystal clear—that I never saw a copy of those referrals, nor did I or any member of my staff or, to my knowledge, anyone in the White House ever ask to see them.

Early January 1994: In early January 1994, Joel Klein, the new White House deputy counsel, a replacement for Vincent Foster, told me that at the Renaissance Weekend in South Carolina, which Mr. Klein attended, the President had sought to have a brief conversation with Eugene Ludwig, Comptroller of the Currency, asking for advice, I believe, as to how to deal with the recent flurry of Whitewater stories.

Mr. Klein said to me that he told the President and Mr. Ludwig that it would be best if they—if they did not speak about the matter. I told Mr. Klein I agreed and that he had done the right thing. At some later time, in a brief telephone call from Mr. Ludwig, I told him I agreed with Mr. Klein.

I saw the President shortly thereafter. I told him I had heard about his brief conversation with Mr. Ludwig. I also said to the President that it was also my view that he should not speak to Treasury officials about this matter. The President and I agreed that if there were any appropriate conversations to be had, they should be had by counsel—either White House counsel, if they concerned official matters, or private counsel, if they concerned purely private matters.

The next contact I recall occurred on February 2, 1994. On that day, I received a call from Mr. McLarty's office asking me to attend a meeting that evening in his office. When I arrived—I wasn't told the purpose of the meeting—I found Roger Altman; Ms. Hanson; Harold Ickes, the White House Deputy Chief of Staff; and Margaret Williams, the First Lady's Chief of Staff, in the room.

When I asked what the meeting would concern, I was told that Mr. Altman was going to brief us about the statute of limitations process being followed in the RTC's Madison Guaranty investigation. I then asked one of my staff, Mr. Eggleston, to join us.

At the outset of the meeting, Mr. Altman told us that he would be informing us about a process that had recently been discussed with various Members of Congress. He then discussed the RTC Completion Act, explaining that the statute of limitations with respect to civil fraud and intentional misconduct was due to expire on February 28, 1994 in the Madison matter.

He told us that the RTC would have to reach a decision by that date about whether there was a prima facie—prima facie case of fraud or willful misconduct. He said the RTC would have three options: One, bring a lawsuit if there was a good—if there was a good-faith basis for one; two, do nothing and let the statute of limitations expire; or three, seek from potential defendants, including possibly the Clintons, tolling agreements—that is, agreements extending the statute of limitations.

Mr. Altman said that the RTC investigation was headed by Jack Ryan, the RTC's Deputy Chief Executive Officer, and Ellen Kulka, the RTC's general counsel. He told us that he had confidence in them and would be inclined to rely on their recommendations. He said they had both recently come from the Office of Thrift Supervision, the OTS. I said that I had heard of Ms. Kulka when she worked for the OTS, and that she was one of a group of tough OTS litigators. While I never personally met or dealt with Mr. Ryan or Ms. Kulka—I have never met them to this day—I had firsthand experience with the OTS, having represented a large law firm in some difficult and contentious litigation.

Mr. Altman then turned to a subject that he had not previously identified as a topic for discussion. He said that he was considering recusing himself from the Madison Guaranty investigation. He said he had discussed this with Ms. Hanson and Secretary Bentsen, and they agreed it would be best.

Mr. Altman went on to say that he had received ethics advice to the effect that he was not legally or ethically required to recuse himself. That meant two things to me: First, that Mr. Altman believed he could in fact act impartially in the Madison Guaranty matter; and second, that Mr. Altman and his ethics advisor believed that his acting in the matter would not—would not raise an appearance of partiality within the meaning of the relevant ethical standards.

Notwithstanding this ethics advice, Mr. Altman said he was inclined to recuse himself. Mr. Altman added that he did not believe his recusal would have any effect on the RTC's decisionmaking process, since he expected to follow the recommendations of the RTC staff in any event.

I felt, when this issue was raised, that what Mr. Altman had said raised an important policy issue for the executive branch. I was concerned that Mr. Altman's recusal might set a bad precedent for the Clinton and future administrations.

My experience as a lawyer has taught me that if a judge has a legal or ethical obligation for recusing himself or herself from a matter under adjudication, he or she should promptly do so. But if there is no legal or ethical reason for recusal—and Mr. Altman had said there was no such legal or ethical reason for recusal—then that individual should do his or her sworn duty.

This principle was eloquently expressed by then Justice Rehnquist in *Laird* v. *Tatum*, when, shortly after he was appointed to the Supreme Court, he was asked to recuse himself from the case. After examining the law and the relevant ethics principles and finding that he was not legally required to recuse himself, he wrote, in words that I remember, that the duty of "a Federal

judge . . . to sit when not disqualified . . . is equally as strong as the duty to not sit where disqualified."

I believe—naively, perhaps—that the same principle applies to the executive branch and regulatory agencies. Public officials, judges, executive branch officials, Congressmen should not have the option of avoiding their responsibilities simply because they are difficult or inconvenient or because the officials find it personally or politically expedient to step aside.

The public policy issue raised by Mr. Altman's possible recusal was not an academic one, in my mind. It was then a matter of immediate concern to the administration. Just the day before the February 2 meeting, a nominee for the Chair of the FDIC, Ricki Tigert, had been asked by certain Senators on the Banking Committee to agree to commit in advance to recuse herself on any issues which might come before the FDIC connected to Madison or Whitewater, for the ostensible reason that she knew the Clintons and was being nominated by the President.

Ms. Tigert had taken the position at the hearings that if she were confirmed and asked to address Madison/Whitewater-related questions, she would consult the appropriate agency ethics officer. She said she would follow his or her advice. The inquiring Senators indicated that Ms. Tigert's response was not sufficient, it was not good enough. They told her that if she would not agree to recuse herself in advance—regardless of whether she was legally or ethically required to do so—they would block her nomination. To this day, she hasn't been confirmed, I believe.

At the time of the February 2 meeting, I and others in the White House believed it was important for the executive branch to resist efforts to force nominees to agree in advance to recuse themselves in situations where recusal was not legally or ethically required. We felt that those seeking Ms. Tigert's commitment to recuse herself were tampering with the agency adjudicative process.

So, when Mr. Altman said to me on February 2, in Mr. McLarty's office, without any advance notice, that he was inclined to remove himself from the RTC investigation without a legal or ethical basis for doing so, I felt that he might create an unfortunate precedent for our administration and for future administrations.

As White House counsel, I was concerned about what Mr. Altman was considering doing. But I did not tell him to remain in the matter.

I told him that if he was legally or ethically required to recuse himself—if that ever came about, if that ever emerged—he should do so promptly. Obviously, if Mr. Altman had a disqualifying financial interest, or if he believed that he could not decide the matter impartially, or if his continuing to act created an appearance of favoritism within the meaning of the relevant ethics codes—any of which was a ground requiring recusal—it would be necessary for him to remove himself. But he had already told me he had received ethics advice that he did not have a legal or ethical obligation to recuse himself.

So I went on to say to him, that if recusal was not legally or ethically required, he should consider—he should carefully consider whether he should remove himself. I also said that, even if he ultimately determined to rely on a staff recommendation, as he said

he would, the fact that his staff knew there would be a review of its recommendations would help to ensure the fairness and professionalism of the process. I was particularly concerned about the numerous leaks which seemed to accompany RTC actions.

I concluded by saying to Mr. Altman that, in any event, the decision on recusal was for him alone to make, it was his decision and it was for him alone to make, it was up to him. He said he would give the matter further thought.

The only other discussion I can recall in the February 2 meeting is Ms. Williams asking if the private lawyers for the parties, including the Clintons' private lawyers, would be briefed on the statute of limitations process. Ms. Hanson, or perhaps Mr. Altman, said that they would consider it. On the way out of the meeting, I asked Ms. Hanson if Mr. Ryan's and Ms. Kulka's nominations had been submitted to the White House for clearance. I could not recall having heard of their nominations, and we were normally consulted before agency nominations were approved. Ms. Hanson told me that they had in fact been submitted to the White House.

On February 3, Ms. Hanson faxed me a letter Mr. Altman received from Congressman Leach urging Mr. Altman to consult an ethics officer concerning recusal. She left a message asking me to phone her. When I returned the call that evening, Ms. Hanson told me that Treasury was continuing, in response presumably to Mr. Leach's letter, to research the ethical issues involved in recusal.

I suggested to Ms. Hanson that whoever was doing the research might find it useful to speak to Beth Nolan. Ms. Nolan was an associate White House counsel on my staff who dealt with ethics issues. She is a former ethics professor at George Washington Law School and is quite well known and quite respected for her expertise. Ms. Nolan later told me she did in fact have a discussion with the Treasury ethics official, Dennis Foreman.

I also suggested to Ms. Hanson that to the extent that there might ultimately be some concern at Treasury or the RTC about an appearance of lack of independence of the decisionmakers on the Madison/Whitewater investigation, she might take a look at a civil jurisdiction in the recently appointed independent counsel's charter and consider the advisability of the RTC referring those matters to the independent counsel.

On February 3, or shortly thereafter, I ran into Mr. Altman in the hallway of the West Wing of the White House. Mr. Altman told me in a brief conversation that he had given the matter more thought and probably would not recuse himself.

Later in February, either Mr. Eggleston on my staff or Ms. Hanson told me that Mr. Altman would leave the RTC at the end of March when his term expired and that he either could not or would not seek renewal of his appointment. I also believe that Mr. Altman told me in late February in another brief conversation that a Washington lawyer, Larry Simons, was likely to be nominated to head the RTC, and he hoped Mr. Simons' nomination would be confirmed quickly.

There is one other conversation which I believe, members of the committee, demonstrates that there was no attempt on our part to influence the outcome of any RTC investigation. In mid-February 1994, I recall one of the lawyers on my staff telling me that he had

just heard that the RTC had retained Jay Stephens to conduct its investigation of the Clintons. Mr. Stephens, as you all know, had expressed political opposition to the President in the past. When he resigned as U.S. attorney for the District of Columbia in early 1993, he did so with a political blast at the administration.

In response to this news from my staff member, I just shook my head in disbelief. I said the appointment of Mr. Stephens was ridiculous and unfair. I also said there was nothing we should or would do about it.

That is the chronology of events. The meetings and contacts I have described have given rise to considerable controversy, which continues to this day. In my view, however, they were entirely appropriate. I was acting to facilitate the proper functioning of the executive branch and to enable the White House to perform its official duties. I was acting in the pursuit of legitimate, public purposes.

First, with respect to the September 29 meeting, Ms. Hanson provided the White House with notice of a referral that she predicted, quite correctly, the White House would be required publicly to address in the near future. Treasury understood that neither the President nor the First Lady was a subject of the referral. They were potential witnesses. There was obviously a concern that a partial or inaccurate leak might lead the uninformed to believe that because the Clintons were mentioned—or, quote, "named," unquote—in the referral, they were somehow implicated in some improper conduct.

In preparation for these hearings and those in the Senate, I have been questioned about whether I thought Treasury officials had provided the White House with so-called nonpublic information—as if there was something illegitimate about an executive agency sharing nonpublic information with the White House. The White House receives nonpublic information all the time. The only real question, the only sensible question, is whether this information is being properly transmitted and properly used for an official purpose and not for private gain or other illegitimate purposes.

If the White House in its official capacity is required to respond to numerous press inquiries that concern both the official acts and past private behavior of the President and First Family, it is important—here perhaps is part of my disagreement with Mr. Leach—it is important that the White House be in a position to disseminate accurate information to the public, to ensure that spurious or inaccurate allegations concerning the President are dealt with promptly and appropriately. Otherwise, confidence in the President and the Presidency could be undermined without justification. The September 29 meeting furthered this public purpose. It furthered this official purpose.

Second, regarding the October 14 meeting, Treasury officials had advised us of a press inquiry that had already been received and their plans for responding to it. By providing that information, the Treasury officials were assisting the White House in understanding the nature of the press' interest, so that the White House could prepare itself to respond to further inquiries. This is a necessary and important public purpose.

Finally, with regard to the February 2 meeting, the information regarding the statute of limitations process was no different from that already provided to a number of Members of Congress. In any event, there was no information provided in the February 2 meeting related to RTC procedures that White House lawyers did not already know and would not have been obvious to any experienced litigator.

I have already explained the significant public policy concerns with Mr. Altman's statement that he was considering recusal. It was appropriate, in my view, to ask Mr. Altman to consider carefully whether he should recuse himself in a case involving the President when Mr. Altman was neither legally nor ethically obligated to do so. In Mr. Altman's case, it was all the more important to urge careful deliberation, since he—and others, such as Ms. Tigert—were being pressed by the President's political opponents to recuse themselves in advance.

As I have stated, I believed then, members of the committee, and I believe now, that executive branch officials and agency heads should not remove themselves from sensitive matters simply because of political advantage or expediency or for their own personal experience. They should do their duty as each of you is required to do your duty.

Some will contend that the meetings I described should not have been held because they created, quote, "an appearance," unquote, of impropriety. I understand that the ethical rules require government officials to avoid any action that creates the appearance that the law or ethical standards are being violated.

But these same rules require that appearances must be judged in accordance with what a reasonable person—a reasonable, objective, disinterested person—would believe, knowing all the facts and circumstances. The "appearances" are not to be judged simply by whether the conduct stirred controversy or occasioned criticism, perhaps uninformed, by political opponents or by some in the media.

Consideration of all the facts and circumstances of the contacts I described must include the purposes for these meetings, precisely what was said, and the important public policy issues raised.

I know there are some of you who may have different views about the relevant importance of the policy issues I believe were raised by these meetings. As you have heard, I feel very strongly that public servants must do their duty. They should not be able to walk away from their responsibilities without a legal or ethical basis for doing so.

Others, I know—some in this room, some outside this room—may feel less strongly about this policy. They may believe that there are other, more important considerations, including political ones.

I respect those different views. But let us be clear, let us be clear. We are talking about legitimate differences of opinion. We are not talking about differences in ethical standards or standards of propriety.

Thank you, Mr. Chairman.

Thank you, Mr. Leach.

Thank you, members of the committee.

[The prepared statement of Mr. Nussbaum can be found in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Nussbaum.

Mr. Nussbaum, you have considerable experience as a practicing legal counsel, I believe in New York.

Mr. NUSSBAUM. That's correct, Mr. Chairman.

The CHAIRMAN. For how long?

Mr. NUSSBAUM. Mr. Chairman, I graduated from law school in 1961. I was a Federal prosecutor under Robert Morgenthau, the U.S. attorney for the Southern District of New York, from 1962 to 1966. I then went into private practice. I had been in private practice from 1966 until I became counsel to the President of the United States.

I also taught at the Columbia Law School, a course in litigation, trial practice. And as some of you know, in 1974, I took a year out and acted as a special associate—as a senior associate special counsel to the House Judiciary Committee when it conducted the impeachment inquiry involving President Nixon. That was 20 years ago, this month.

I also have been president of the Federal Bar Council, which is a bar association in New York which consists of those lawyers in New York who primarily practice before the Federal courts.

That is my experience, Mr. Chairman.

The CHAIRMAN. I felt President Clinton had done himself well when he was able to attract you to the White House.

I think it's important, sir, to point out the difference between recusal and disqualification. You mentioned that in defining the opinion by Judge Rehnquist, when I think, in reciting his words, you did. But this has been lost sight of here, naturally. We have many members that are not familiar with the significance and the difference between those two terms.

Briefly stated, there is a difference between recusal and disqualification.

Mr. NUSSBAUM. Mr. Chairman, there are legal and ethical standards which set forth when you have to step down from a matter—I am going to speak colloquially for a moment. If you have a certain type of relationship with the party with whom you're dealing, a certain what's called covered relationship, if you have a certain financial interest in the matter, if you believe you cannot act impartially in any way, under those circumstances, you should step down from the matter.

When I was talking to Mr. Altman, what he was basically saying to me is none of those things existed in his case. That's what he was saying.

He was also saying to me that he had consulted, as Mr. Leach had asked him to consult a day later, ethics officials who also concluded that none of those things existed. That is the reason I asked him to carefully consider whether he should do so, Mr. Chairman.

The CHAIRMAN. Did you obstruct justice in the handling of the RTC investigation on Madison?

Mr. NUSSBAUM. No, Mr. Chairman.

The CHAIRMAN. Did you order anyone to obstruct justice?

Mr. NUSSBAUM. Mr. Chairman, I described my background to you. I described where I came from. I described the experience I

had. The last thing that I would do for anybody, including the President of the United States, or for you, or for anybody else, would be to obstruct justice. And the last thing I would countenance that anybody else would do in the White House, or anyplace else, would be an obstruction of justice.

All my life, I have fought against that. All my life, I will continue to fight against that. I never obstructed justice, nor, to my knowledge, did anyone in the White House intend to, try to, in any way come close to obstructing justice.

The CHAIRMAN. I'll ask you one thing even though you did answer it in your presentation.

Did you order Mr. Altman to recuse himself?

Mr. NUSSBAUM. No, I did not order Mr. Altman to recuse himself.

The CHAIRMAN. Thank you very much, sir.

Mr. Leach.

Mr. LEACH. Thank you, Mr. Chairman.

Mr. Chairman, today, we're——

Mr. NUSSBAUM. Nor did I tell Mr. Altman not to recuse himself. I left to him to make his own decision.

Mr. Leach, I am sorry I interrupted.

Mr. LEACH. No problem, of course.

Mr. Chairman, today we're hearing from a number of witnesses, all dedicated Americans who have sacrificed much for public service. Some, like Mr. Nussbaum, have come to this administration after distinguished public and private careers. Some, like Mr. Stephanopoulos, are at the dawn of careers, but are individuals of obvious talent. Some, like Mr. Sloan, carry on their young shoulders what appears to be a mantle of clear decency and ability. And I cite these three only as examples to underscore that the minority has no desire to taint anyone's reputation or jeopardize anyone's job. Indeed, I believe these hearings will reveal to the public that good people do work in Washington and for the government.

And here I think it should be stressed that the minority's problems, especially as they relate to this extraordinarily narrow aspect of this particular probe, are fundamentally above, not with the staff.

Nevertheless, from time to time, as illumined in this case by a rather modest scandal, it's appropriate to underscore certain fundamental features of the American system. And so I would like to ask you several questions, Mr. Nussbaum.

Isn't it true that in our constitutional system the oath of office public officials take is to the Constitution, not loyalty to any particular individual?

Mr. NUSSBAUM. Yes, Mr. Leach.

Mr. LEACH. Isn't it true that in our legal system lawyers are officers of the court?

Mr. NUSSBAUM. I certainly believe that.

Mr. LEACH. And isn't it true that the White House counsel is counsel to the Office of the President and not the President's personal attorney?

Mr. NUSSBAUM. The White House counsel is counsel to the President in his official capacity as President, that's correct.

Mr. LEACH. As White House counsel, did you advise or instruct anyone not to reveal to a possible party to a probe any details or

knowledge that may have come into the possession of the Office of the President that related to that probe?

Mr. NUSSBAUM. On my staff, I had a number of very experienced people, Congressman. I had Cliff Sloan, who was a former assistant solicitor general, a partner in a distinguished law firm. I had Neil Eggleston, a former assistant U.S. attorney in the Southern District of New York and an experienced litigator. Bruce Lindsey, who is on the White House staff, is a lawyer of high competence and high integrity. I didn't feel it necessary to issue those kind of instructions to those people.

I knew and I still know to this day that those people would not release confidential information which they received in the course of our official capacities to anyone outside the White House for any improper purpose, or for any purpose.

Mr. LEACH. OK. So you are confident that no information was passed on by anyone, directly or indirectly, either to the President or any other target or potential target of a probe?

Mr. NUSSBAUM. The President in September 1993, in October 1993, when we had these meetings, was not a target of a probe, Congressman Leach. He was not a subject of the investigation. That was one of the first things Ms. Hanson told me in that September 29 meeting.

This, very frankly, although in retrospect is great irony, was not such a big deal at that time. Whitewater was not on the screen. Whitewater went on our screen, our national screen, in December 1993.

Mr. LEACH. Let me ask you this, then.

Mr. NUSSBAUM. Mr. Leach, please just let me finish this. This was not a big deal. What this involved to me was some sort of possible illegal or improper campaign contributions. Politicians, Presidents, Congressmen get thousands of contributions. Somebody may have made an improper contribution. This is the President. I recognize we may get press inquiries, but this was not a major crisis.

Mr. LEACH. Let me just ask this question. You have a long and distinguished career in the attorney's office in New York City, and isn't it true from your experience that a person who is a witness at the early stages of an investigation can become a target at later stages, especially when that witness is defined as a beneficiary of a possible criminal act?

Mr. NUSSBAUM. Theoretically, yes, that is a possibility, but I did not believe that this would happen in connection with the President of the United States, and I still don't believe that it will happen.

Mr. LEACH. Thank you. Thank you, Mr. Nussbaum.

Mr. NUSSBAUM. Thank you, Congressman.

The CHAIRMAN. Mr. Neal.

Mr. NEAL. Mr. Chairman, thank you.

I thought I would just take a moment to sort of see where we are concerning these hearings. What we have learned so far is that there have been absolutely no violations of any law, no violations of any ethical standards, no investigations interfered with in any way, no coverup of any kind, and that our hearings are just as complete as they can possibly be given our charge, which is a resolu-

tion that passed the House of Representatives with only 15 votes against it. Every Republican on our committee voted for it.

Now, when I say that there are no violations of law, who was it that told us that? Was that something that we dreamed up? No, it wasn't.

You will recall that this whole matter has been instigated by Republicans, and they wanted a special prosecutor. So our Justice Department found a special prosecutor who we thought, I think everyone thought, would satisfy them completely. They chose Mr. Robert Fiske.

Mr. Fiske had been appointed by a Republican President as a U.S. attorney. He had been nominated by President Bush as a Deputy Attorney General of the United States. He has donated thousands of dollars to Republican candidates. He has been praised for his ethical standards by Mr. Leach and Mr. D'Amato, two of the leading critics of the President in this area.

In other words, his Republican credentials are impeccable, and yet he found no violation of law. Now, he did that after full grand jury proceedings, so all of this investigation is fully on the record and is just as complete as we can possibly make it.

Now, the Republican friends of ours thought that wouldn't be enough so they wanted the hearings and that is where we are today. At their request we are holding these hearings, again in keeping with the resolution that passed the House.

Well, since there is no violation of law, no ethics violation, no coverup, no inhibiting of anything, what is going on here? How should the American people, who are watching us spend millions of dollars, days of our time, not on the major matters that the American people think we should be dealing with, but on this? What is going on?

Well, I must say, I think that it is politics at its worst.

Mr. Leach, my friend who I respect enormously, mentioned at the beginning of this that there was a principle involved here. Now, the principle he mentioned was whether or not the President ought to have gotten a briefing and I guess that is what we are down to, frankly. All this—although someone else questioned a few telephone calls. He said that was the important principle.

There is another important principle, and that principle is spelled out in the Constitution, and it is that every 4 years we have elections. And in 1992 Mr. Clinton was elected President, and under his leadership we have moved in the right direction with our economy and a number of other areas.

Mr. Greenspan, the Chairman of the Federal Reserve, said the other day that our economy is in the best shape it has been in in decades, and employment is up, inflation is down, interest rates are down, and so on, so you can't attack. I don't agree with everything Mr. Clinton has done—every one of his policies—but you can't really attack him on that level, so what is going on, I want to say to anyone who is interested, is an attack on President Clinton personally, the scurrilous attacks by this hatemonger Jerry Falwell and certain publications—look at this, for example, here the *Washington Times*, "Documents Hint." "Documents Hint" in a headline that is usually reserved for us going to war. This is what is going on. The American public ought to understand.

There has been no violation of law, no ethical violation. This is an attempt to smear the President personally, to weaken his ability, to weaken this country's ability to deal with serious problems.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Mr. McCollum.

Mr. MCCOLLUM. Thank you very much, Mr. Chairman.

Mr. Nussbaum, it is unfortunate I can't get into the line of questioning today that I think most of the people would like to have us question you about and that is what happened the night after Vince Foster's death in his office. I can't do that. I am not going to, but I would like to follow up on what Mr. Leach asked.

Mr. NUSSBAUM. At the appropriate time, I would also be delighted to answer those questions.

Mr. MCCOLLUM. We would like for that opportunity to be here now. We will look forward to that.

In followup to Mr. Leach's questions, though, I am under the impression from your answers that, first of all, you have had, and I think from Chairman Gonzalez' questions, too, it is clear, extensive experience both as a prosecutor and as a counsel representing individuals who were the subject of criminal investigations; that is correct, is it not, sir?

Mr. NUSSBAUM. That is correct, sir.

Mr. MCCOLLUM. In answering Mr. Leach's questions a moment ago, you indicated that you did not think this was a big deal because you thought that the information given to you by Miss Hanson in that September 29 meeting was reference to the campaign and perhaps some checks of the campaign that might have been illegal.

That was your impression; is that correct?

Mr. NUSSBAUM. Again, Congressman McCollum, you must remember that at this point in time Whitewater, what we now call Whitewater, McDougal, all those relationships, they were not on our screen, they were not being discussed, no charges were being made. That all happened later, 60, 90 days later, which ultimately resulted in the appointment of an independent counsel.

Mr. MCCOLLUM. But you did know that this was a criminal referral and that it had been made or expected to be made, and that is what Ms. Hanson told you, of whatever subject matter; isn't that correct?

Mr. NUSSBAUM. Yes, I did know that.

Mr. MCCOLLUM. And that the President and Mrs. Clinton might well be witnesses as a result of that in some criminal proceeding; is that not correct?

Mr. NUSSBAUM. I did know that.

Mr. MCCOLLUM. Isn't it also correct, Mr. Nussbaum, that in most instances where you have law enforcement and investigations like this that the reason why investigators are concerned about the passing on of information of even of the nature that there was a criminal referral to the person who is a witness or a target of an investigation, either one, is their concern that that person might either intentionally or unintentionally say something or do something that might frustrate the furtherance of that investigation? I mean, generally speaking. I am not talking specifics.

Mr. NUSSBAUM. Congressman McCollum, this information, this limited information about this criminal referral, was being given to us because the RTC and the Treasury believed it was about to become public. It was about to be leaked, and they turned out to be correct, and all they wanted was for the White House to be in a position to respond as they thought appropriate to any press inquiry.

Mr. MCCOLLUM. Why would the White House want to respond? Why wouldn't the Treasury, Mr. Nussbaum?

Mr. NUSSBAUM. Because, Congressman McCollum, the President's name is mentioned in the criminal referral as a possible witness—quote, "named," unquote, as a possible witness. We should be in a position——

Mr. MCCOLLUM. That is a big deal, Mr. Nussbaum.

Mr. NUSSBAUM. It is potentially a big deal if there is uninformed speculation as to what that means. There might be, if we are not informed, a headline in the *Washington Times* which says "Clinton Named In Criminal Referral," suggesting somehow that he was a target or an object of the referral.

What they were telling——

Mr. MCCOLLUM. If you were concerned about the politics—if I might interrupt; I have a limited amount of time.

Mr. NUSSBAUM. I am not concerned about the politics. I am concerned that there be no misinformation or inaccurate information being disseminated which would undermine the President, undermine the confidence——

Mr. MCCOLLUM. I will accept you are concerned about that.

You also knew, as a former prosecutor and having handled a lot of investigations like this, that the status of this investigation was not at all complete, was it? It was the status with criminal referral to the Justice Department, the FBI, who was to do more investigation on it, no decision had been made yet, there was a lot more to be done. RTC hadn't even had field investigations; am I not correct? You understood that part by the nature of just the fact of your experience as a criminal referral?

Mr. NUSSBAUM. I understood the investigation would continue, but I also understood, Congressman, that once there is a leak from the RTC or the Treasury and once misinformation gets out there, the White House cannot be passive, the White House is a center of media press attention, and it is our obligation in the White House, as part of our official function, to answer promptly and to provide accurate information with respect to what is out there or otherwise the President can be unfairly tarred as he——

Mr. MCCOLLUM. What you are worried about, you were concerned about one part of your job. I wouldn't deny that was one part of your job, but you were overconcerned, it seems to me, about that because there were other facets of your job that I think we need to get into before the day is out of giving advice to those who are around about this referral because of your experience, and one of the questions that was leading into that Mr. Leach got to, and I don't think got very far. But I gather that you did not, as a result of your think pattern that night, suggest or state or urge on either Mr. Sloan or Mr. Lindsey that they not inform the President of this

or that they not discuss it with him. I gather you found that acceptable. You didn't find a problem with that?

Mr. NUSSBAUM. Inform the President? Yes, I found it acceptable.

Mr. MCCOLLUM. Even though he was a potential witness and even though technically the FBI investigation hadn't been done and he could become a target?

Mr. NUSSBAUM. There would be press inquiries. We should be in a position to respond—it is part of our official function.

Mr. MCCOLLUM. But you are treating the President differently than you would treat somebody else, are you not, Mr. Nussbaum? I think you were.

Mr. NUSSBAUM. No, I wasn't.

Mr. MCCOLLUM. My time is up, but I think you were.

The CHAIRMAN. Mr. Frank.

Mr. FRANK. Let me follow this line of questioning.

I must say the notion that it was inappropriate to tell the President of the United States that his name was mentioned as a possible witness and that the press was already likely to get ahold of this baffles me. I cannot think of a single President who wouldn't have been told that.

They would even wake up some Presidents to tell them that. And as an example of why it needed to be told, in Mr. Leach's and my other life, I have been playing Galileo, I have been Ptolemy I guess to his Galileo on television on frequent occasions. At one of our earlier joint appearances, Mr. Leach mentioned on television that the President and Mrs. Clinton had been named in a criminal referral. I don't suppose Mr. Leach was briefed by you. He had heard about it, and this was before it had become a public matter since it still hasn't become a public matter.

Frankly, when Mr. Leach was able to say that on television and say that is why this is a serious issue, it would seem to me to be bizarre that the President should have been the only person who didn't know it. Now, what I want to ask, though, because we have been told there is a potential problem, once the President knew it, he might have done this and he might have done that and he might have done the other, did anybody do anything from the time the President was told, or any other time, to retard this criminal referral from being made?

Mr. NUSSBAUM. No, absolutely not.

Mr. FRANK. Did anybody interfere or was there even an allegation that anyone interfered with any of the evidence that would have been relevant?

Mr. NUSSBAUM. No, absolutely not. It would have been contrary to the policies of the White House, contrary to the memorandum I issued, contrary to our philosophy.

Mr. FRANK. I want to be clear. Nobody has even alleged that. They told the President, by the way, Mr. President, you might want to know, it is going to be in the paper, you are going to be mentioned as a potential witness in this Whitewater thing, and the President says, wow, and that seems to be the nub of this whole thing right now, except that maybe you were overconcerned with part of your job.

The next question I have has to do with Mr. Fiske because there have been some allegations about that. Mr. Fiske's charter, first we had the criminal referral, then we had Mr. Fiske.

What involvement did you have in the appointment of Mr. Fiske, Mr. Nussbaum?

Mr. NUSSBAUM. I had no involvement in the appointment of Mr. Fiske. Mr. Fiske was appointed by the Attorney General.

Mr. FRANK. That well-known pliable tool of the administration, Ms. Reno?

Mr. NUSSBAUM. Janet Reno is a strong, independent person. She is her own person. She makes her own decisions, as we all know.

Mr. FRANK. Were there any restrictions on Mr. Fiske's charter?

Mr. NUSSBAUM. There were no restrictions on Mr. Fiske's charter nor did anybody in the White House attempt to negotiate with anybody in the Department of Justice.

Mr. FRANK. By the way, when my friend from Florida said that he would rather be asking about other issues, the only reason we are not asking about them today is that Mr. Fiske specifically asked us not to and we will be asking about those as soon as he says we are not interfering.

Let me ask about Mr. Altman because there was a question about recusal.

During the time that Mr. Altman did not recuse himself—and can we also explain that recuse does mean to take yourself out of the particular case. I think that is another word that people are somewhat confused about. I am waiting to be shown a redacted recusal at some point in these proceedings. But during the period of Mr. Altman's being involved, did he make any decision, that you are aware of, with regard to the Madison Guaranty issue?

Mr. NUSSBAUM. No, he did not. In fact, Congressman, he said that on any decision he was likely to make in this matter he would rely on the staff.

Mr. FRANK. As I understand it, the only issue that could have come up at that point, because the criminal referral had already been made, was whether or not the statute of limitations on the civil side should have come—should have been extended. And during these periods, that is apparently what was being talked about, is that correct, the statute of limitations?

Mr. NUSSBAUM. That is correct, sir.

Mr. FRANK. I think we should make it very clear, Mr. Altman did make a decision. He decided to drive us crazy here in the Congress until we passed a statute that extended the statute of limitations affecting Madison Guaranty because this committee voted, and I was in the minority along with most of my Republican colleagues, to extend the statute of limitations. Some of us didn't want it retroactively extended. We were outvoted. My friend from Massachusetts and others won.

The bill then came before us. Mr. Altman as head of the RTC was in charge of getting us to pass the bill. One of the last bills we passed in November 1993, before we adjourned for the year, was one which included an extension of the statute of limitations on the civil part of Madison Guaranty.

It passed with overwhelming support from Democrats. Some Republicans, like Mr. Leach and others, most Republicans voted

against it. Then with the statute of limitations due to expire sometime in mid-February, in a rather extraordinary display of early activity by the Congress right after an adjournment, in February 1994, indeed I believe on February 2, 1994, while these other discussions were going forward, before the statute of limitations expired, we retroactively extended it, Congress passed that conference report and Bill Clinton, having been told apparently that he was a witness potentially in this case, the only action he took was to sign a bill that extended the statute of limitations on Madison Guaranty which had been passed over the objection of most of the Republicans. That is the damnedest conspiracy I ever heard of. Now, is there any other example of anybody in the White House taking any action with regard to this issue?

The CHAIRMAN. The time of the gentleman has expired.

Mr. NUSSBAUM. No, sir.

Mr. FRANK. Thank you.

The CHAIRMAN. Mr. Bereuter.

Mr. BEREUTER. Mr. Chairman, I yield my time to Mr. McCollum.

Mr. MCCOLLUM. I thank the gentleman for yielding.

I want to follow up on one of the points Mr. Frank was making at this juncture, if I could, Mr. Nussbaum. Am I correct, you have said that you were not involved in the appointment of Mr. Fiske to be the independent counsel, you just said that, as I recall?

Mr. NUSSBAUM. That is correct.

Mr. MCCOLLUM. But isn't it true that you advised Attorney General Reno with regard to Mr. Fiske in this appointment?

Mr. NUSSBAUM. All I did, at the instruction of the President, was send a letter to the Attorney General requesting that she appoint an independent counsel. Mr. Frank was referring to whether I was involved in the naming of the specific person as independent counsel.

Mr. MCCOLLUM. You did get involved in sending a letter?

Mr. NUSSBAUM. I did pass on the President's request.

Mr. MCCOLLUM. Did you discuss this with Ms. Reno at any point?

Mr. NUSSBAUM. No, I did not.

Mr. MCCOLLUM. Mr. Nussbaum, going back to the previous questions I was asking you, I would like to follow up a little bit more with regard to what transpired after the events of the September 30 meeting, I guess it was—yes, September 30, with Ms. Hanson.

Mr. NUSSBAUM. September 29, sir.

Mr. MCCOLLUM. September 29, that is what I had down in my notes. I don't know why I slipped 1 day here in that comment. My brain cell jumped one with you. My understanding from what you said earlier, is that Mr. Sloan was called in and Miss Hanson repeated everything virtually to him. He was one of your counsels in the White House counsel's office, so he knew everything that you knew at that point, is that not correct, about the criminal referral, about the incident to what extent she gave him?

Mr. NUSSBAUM. She repeated to him what she told me, which was that there was a criminal referral regarding an Arkansas savings and loan association, that the Clintons were not objects or targets of the investigation, that they were potential witnesses.

Mr. MCCOLLUM. He knew everything that you knew?

Mr. NUSSBAUM. That it involved a number of checks which may or may not be proper for——

Mr. MCCOLLUM. Everything you knew?

Mr. NUSSBAUM. Everything I knew, that is what she repeated to him.

Mr. MCCOLLUM. It is my understanding that at some point along the way Mr. Sloan or you told, you don't recall which, Mr. Lindsey the essence of this?

Mr. NUSSBAUM. Yes, that is correct, because Mr. Lindsey was the person—why did we tell Mr. Lindsey?

Mr. MCCOLLUM. Yes, why?

Mr. NUSSBAUM. The reason we told Mr. Lindsey is because we knew there were going to be leaks. She told us there were going to be leaks, and Mr. Lindsey is the person in the White House at that time who was mainly responsible for responding personally in most cases to press inquiries with respect to Arkansas activities. Mr. Lindsey was the appropriate person to tell in the White House.

Mr. MCCOLLUM. He was also very close to the President and was not part of your counsel office; is that not correct?

Mr. NUSSBAUM. The White House is a small, intimate place, and Mr. Lindsey is obviously close to the President. There are other people in the White House close to the President.

Mr. MCCOLLUM. All right. What I want to know is this: Did you expect Mr. Lindsey—did you anticipate in advance at the time this discussion took place that Mr. Lindsey would tell the President? I think in fact he did tell him, that is what the record shows.

Mr. NUSSBAUM. We did not discuss——

Mr. MCCOLLUM. Did you expect it?

Mr. NUSSBAUM. Whether he would tell the President?

Mr. MCCOLLUM. Did you think about it?

Mr. NUSSBAUM. It wouldn't surprise me if he would tell the President. Indeed, I would have told the President if I thought it was a big deal, if I thought there was about to be an explosion in the press with respect to this.

Mr. MCCOLLUM. You have already said to us, while you said it wasn't a big deal, you already said you were doing all these preparations. I think it is inconsistent for you to say to us it is not a big deal when in fact you act like it was. But let me go on. That is a comment of mine, not a question, Mr. Nussbaum.

I am interested in knowing what happened next in this process. I understand that at some point a few days later, according to the notes that were taken here, let me give a predicate for it, that the President went to talk to Governor Tucker. He just happened to have occasion to talk to him, and the notes of Mr. Sloan's conversations with Jean Hanson indicate that as early as September 30 reporters were seeking to verify that the Resolution Trust Corporation status of Governor Jim Guy Tucker of Arkansas is the subject or target of investigation related to Whitewater, and one of the nine referrals in this case in which the President was mentioned, and that Mr. Sloan's notes suggest that the Clinton gubernatorial campaign was specifically mentioned by the reporters as a possible coconspirator.

Did it not occur to you, Mr. Nussbaum, that the President, being a friend of Governor Tucker, ought to be advised, if you kind of ex-

pected maybe he would be told about this, that he should be careful about what he said to Governor Tucker or that he shouldn't even meet with Governor Tucker because of the appearance that that might give with this connection? Didn't it occur to you to give that kind of advice or why didn't you?

Mr. NUSSBAUM. The only information that I understand Mr. Sloan received was from basically what the press was saying, at least to the Treasury Department, that was being passed on to Mr. Sloan. I didn't know, I don't remember that information being received; I don't remember those conversations.

Mr. MCCOLLUM. I am concerned about the compromising of this whole investigation by the President of the United States talking to Governor Tucker. That is ridiculous.

Mr. NUSSBAUM. The President of the United States did not compromise any investigation, to my knowledge. Mr. Cutler——

Mr. MCCOLLUM. You should have been concerned about it, whether he did or not.

The CHAIRMAN. The time of the gentleman has once again expired.

The Chair will recognize Mr. Frank for a clarification of a statement he made.

Mr. FRANK. This is a unanimous consent request I am making, after consulting with Mr. Leach. I misspoke earlier, hard as that is to admit, and I apparently said that Mr. Leach had voted against the bill which included the extension of the statute of limitations. In fact, he was one of those who voted for it.

Mr. SANDERS. You said he voted for it.

Mr. FRANK. People heard it differently. Mr. Leach in committee voted to extend the statute of limitations. I did not as a matter of fact. And on the floor, Mr. Leach led a group of about 20 Republicans who did vote with us and so when we extended the statute of limitations, that was it. It just shows people can get confused sometimes when they are talking about long-ago events.

The CHAIRMAN. The gentleman has clarified.

Mr. Kanjorski.

Mr. KANJORSKI. Thank you very much, Mr. Chairman.

Mr. Nussbaum, just a side matter here. I have heard over the last several days of hearings and from our last witness, about this emotionally charged word "criminal referral." I am just wondering whether or not you, as a former prosecutor, are aware of the fact of how few criminal referrals ever result in anything, even against the targeted individual, much less witnesses mentioned in them.

Mr. NUSSBAUM. That is correct, Congressman. I am well aware the Department of Justice gets numerous criminal referrals—we will use the word "referral" rather than information—gets numerous criminal referrals from various departments, including the RTC.

As Mr. Cutler testified the other day, there are thousands of criminal referrals. Very few of them, after the Department of Justice looks at them, investigates, sends out the FBI, uses the grand jury, very few of them turn into criminal cases, criminal indictments. Because there is a criminal referral does not mean there will be a criminal case. Indeed, the odds are still against there being a criminal case.

This is not to say a criminal referral is not serious or not sensitive. I understand that. I do understand that. I don't want to make light of that, but the fact is, Congressman, that most criminal referrals do not necessarily end up in criminal cases.

In any event, with respect to this criminal referral or these criminal referrals, the President was not a target or not an object of those referrals. The only thing the President is now an object of is an investigation that he himself put into motion when he asked for the appointment of a special counsel, an independent who is now Mr. Fiske. The President himself, in his desire to have a full and complete investigation and the desire to put this matter behind him, is the one who set into motion an investigation of his conduct.

Mr. KANJORSKI. Mr. Nussbaum, maybe if we think about it, because those of us who are lawyers don't treat the phrase "criminal referral" as a serious matter as the press or political people do, maybe we ought to change the name to an "information referral." We probably wouldn't have to be here today then because there would be normal communication that goes between all sorts of agencies in regard to all kinds of matters that may or may not include the name of the President or the First Lady, or for that matter, I may suggest to my fellow colleagues, Members of Congress, under the standard that is being applied here and the implications and innuendos made as a result of being named as a witness in a criminal referral. It would seem to me that it is outrageous that there should be a supposition that one's political career should end because one bureaucrat somewhere along the line inserts some information in a piece of material that should be in confidence but we know in Washington is not and that goes into the Justice Department, that could end your career.

In regard to that, not much has been made of the fact that there was a Federal attorney in Little Rock who was an appointed Federal attorney by the prior administration, the Bush administration, that felt that nothing should be done in this matter; is that correct?

Mr. NUSSBAUM. That is my understanding now; yes, sir.

Mr. KANJORSKI. And that material has not yet come out to the public, but I have made a request to the Attorney General to see if we can't get the letters that went between the FBI and the Federal attorney——

Mr. NUSSLE. Mr. Chairman, parliamentary inquiry.

I apologize for interrupting. I don't want this to come off the gentleman's time, but my understanding is, Mr. Chairman, parliamentary inquiry, that these issues are outside the scope of the hearing that we are conducting today involving the so-called Little Rock investigation or things happening outside of the Washington context; is that correct?

The CHAIRMAN. That is right, sir, that is out of the scope. In fact, that is definitely——

Mr. KANJORSKI. If the chairman please, for that purpose, I would withdraw that question or any part of the question and I would ask the record to so reflect.

Finally, Mr. Nussbaum, I would say I have never met you before and you have really impressed me as being an able lawyer and if the President had the good sense to hire you, I think if I needed counsel I would look toward you as counsel, too.

Mr. NUSSBAUM. Thank you, sir. I am now in private practice.

Mr. KANJORSKI. And you are seeking clients. I can't help but say that it is very unfortunate that individuals like yourself, who have voluntarily given up huge incomes to come and serve in this city, find it so rough and tumbling that sometimes you leave before you finish your service.

I mentioned yesterday or the other day that we witnessed the Middle Eastern affair come near a close while we were in the process of this session, and I have listened today, and I can just feel, feel the tumultuous desire on the participants, my colleagues here today to get at this thing, whatever it is, and have a price paid, or whatever that may not be, because it may have some political expediency.

All that being aside, I want to tell you that I agree with your interpretation of recusal. I think too many people in political life and appointive life are too willing to protect their backside and remove themselves from the difficult things and decisions we have to make. I watched that with some former Members of Congress that recuse themselves from voting on such things as the pay raise or constantly will go on to the floor and know they are in favor of a piece of legislation but protect their backsides by voting no because they can always go back to their constituents and say they didn't support it, so I compliment you, sir, in the application of your standards.

Mr. NUSSBAUM. I thank you very much, Congressman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Ridge.

Mr. RIDGE. Thank you, Mr. Chairman. I would yield my time to my colleague from Florida, Mr. McCollum.

Mr. MCCOLLUM. Thank you, Mr. Ridge.

I can't help but note that Mr. Frank made, I think, probably the innocent error of statement about the status of Mr. Altman at the time the statute of limitations renewal was coming up as an issue.

I have a copy of a letter I would like to introduce as an exhibit, Mr. Chairman, at least refer to it for the purposes of questioning Mr. Nussbaum. To you, dated May 4, 1993, by Mr. Altman which specifically goes to the statute of limitations question which he is asking for it to be extended.

The CHAIRMAN. Will the gentleman yield to me?

Mr. MCCOLLUM. I will be very glad to yield to you.

The CHAIRMAN. Do you have a copy for the witness?

Mr. MCCOLLUM. I do and I would be very glad to give him that copy.

The CHAIRMAN. I think that is usual.

Mr. MCCOLLUM. I would like to, yes, Mr. Chairman.

My only point in doing that is simply to express the fact that it concerns me, Mr. Nussbaum, that indeed Mr. Altman in his capacity at that point in time was attempting to influence this Congress over an issue of this matter considering all of the circumstances that were involved in this. But anyway, I am not really wanting to question you about the letter. I wanted to give it to you, let you have it, and let you know that that was the status.

I would like to actually return more specifically to the line of questioning I was doing earlier. I find it very difficult, Mr. Nussbaum, to accept, as I said a moment ago, your conclusion——

Mr. NUSSBAUM. I don't think I have seen this letter before.

Mr. MCCOLLUM. I am not going to ask you about it. I just wanted to give it to you for your information and I wanted to clarify the fact that Mr. Altman was, at the time the statute of limitations issue came up, still the head of RTC and he did write in his capacity to Chairman Gonzalez on that issue.

Mr. NUSSBAUM. This was in May 1993?

Mr. MCCOLLUM. That is right. That is correct, and it is irrelevant to my next line of questioning, but it was clarifying Mr. Frank. I want to be sure that we understand this one point. I think it is very important.

You are telling us today that the information given to you by Miss Hanson in September 29 of last year, 1993, was not a very big deal to you because it dealt with the President's campaign issues and so on, yet to me, and this is a characterization, but it is how I read it today, the way you reacted to it, the concern about the press, the worry about what went on, the way the others reacted, belies that. It became a very big deal.

Now, having said that, that is my interpretation, you are obviously——

Mr. NUSSBAUM. I disagree with that.

Mr. MCCOLLUM. I know you do.

Mr. NUSSBAUM. I don't think we overreacted at all.

Mr. MCCOLLUM. I didn't say you overreacted. I said the way you reacted.

Mr. NUSSBAUM. I don't think we reacted very intensely at all. What we did when we received the information was just an attempt to put ourselves in a position to be able to respond to press inquiries to correct any misinformation. That is all we did. We received a limited amount of information, a tiny amount of information.

Mr. MCCOLLUM. Mr. Nussbaum——

Mr. NUSSBAUM. We acted in a constrained manner.

Mr. MCCOLLUM. Normally, it is RTC policy not to be constrained by criminal referrals. I don't see why you were involved in doing that. I find it very difficult to understand why in this particular case you did not exercise your prerogative as the chief counsel of the President of the United States to be concerned that he, as a potential witness in a criminal referral, with no FBI investigation having been completed on this, with no RTC investigation having been completed, when he might or his wife might have become the targets as far as you knew at that time, and the fact that Governor Tucker, other people might have been involved, why you didn't exercise a little prudence?

You didn't know all those facts, but as the counsel with the experience you have had, I do not understand why you did not take it upon yourself to at least admonish Mr. Sloan or Mr. Lindsey either not to tell the President about this, or if they did, to question him about the dangers of walking into the very fire that he apparently did when he talked to Governor Tucker. Your sensitivity or lack of

sensitivity to that doesn't make sense to me based upon what you have said today or your experience.

The CHAIRMAN. The time of the gentleman has expired.

The witness, if he desires, may address the question.

Mr. NUSSBAUM. I didn't admonish them not to tell the President because there is nothing wrong about telling the President with respect to the fact that there may be press inquiries. The press inquiries, Mr. McCollum, may come to the President. The President may be at a press conference and some——

Mr. MCCOLLUM. There may be no problem with the press inquiries, but the criminal referral data is a different matter.

Mr. NUSSBAUM. Obviously, one of the people in the White House who will respond to press inquiries is the President of the United States. We don't want him to be blind-sided. We want him to be in the position to be able to answer accurately, promptly any allegation or claim that is made that comes from the press. This is part of our job. This is what you are supposed to do.

Mr. MCCOLLUM. And you weren't as concerned about blowing a criminal investigation?

The CHAIRMAN. The time of the gentleman has expired.

Mr. NUSSBAUM. I would appreciate, Congressman, if I could just finish my answer.

Mr. MCCOLLUM. I will let you.

Mr. NUSSBAUM. Thank you.

That is what senior White House aides in this area are supposed to do, they are supposed to put the President in a position where he can respond in an effective, prompt, accurate manner. That is all we were trying to do. This is part of our official function, is to respond to press inquiries.

The President is not above the law. I don't believe the President is above the law. Mr. Leach doesn't believe he is above the law. I am sure you don't believe he is above the law.

My experience in Congress here when I worked as a senior associate special counsel 20 years ago taught me that no President is above the law or should be above the law, but in the White House, which is the center of press attention, the center of media attention, all sorts of charges come at us all the time. I was told the President was a potential witness in something, a campaign contribution case, in effect, allegations may be made, misinformation may be disseminated.

What a responsible lawyer does then is put his client or his client's organization, the White House, in a position to respond truthfully, accurately, promptly. We didn't go out and try to interfere with witnesses or do anything like that. What we did was the thing we had to do; namely, to put us in a position to answer questions that would come to us. That is an official function, that is a legitimate function, that is all we were doing, Congressman.

Thank you.

The CHAIRMAN. Mr. Kennedy.

Mr. KENNEDY. Thank you very much, Mr. Chairman.

First of all, Mr. Chairman, let me say how unfortunate I think it is that you have come under criticism for the way that you have handled these hearings. I just want to say that in my experience and all of the S&L hearings and all of the investigations into Iraq

and all of the investigations into BNL, these are hearings that fall into the full normal conduct that this body has always chosen with your, I think, well-established reputation for integrity, and I say that because I know that you have withstood those attacks in the past and have always come out on the other side and I am sure you will again.

The CHAIRMAN. Thank you.

Mr. KENNEDY. I want to respond to just the line of questioning that just took place. First and foremost, I think it is interesting to see Mr. McCollum at this time seeming to advocate for the extension of the statute of limitations. I was a person that had proposed the extension of the statute of limitations on these issues, and I never once got support from Mr. McCollum on any of those votes.

Mr. MCCOLLUM. Will the gentleman yield just on that because I do agree.

Mr. KENNEDY. No, I will not yield.

Mr. MCCOLLUM. I just wanted to make the point about the role of the counsel.

Mr. KENNEDY. The second point, Mr. Chairman, is that I also think it is interesting that we hear Mr. Leach today indicate that he is not questioning Mr. Nussbaum's ethics or the ethics of other White House officials, and I just want to point out that that is certainly a big change from the statement that he made on the House floor just a few months ago in March, and I quote, "seldom have the public and private ethics of lawyers in the White House and the executive branch been so thoroughly devalued."

It seems to me that what has happened is we have seen the actual rhetoric that has gone on on the Republican side have to in fact be channeled down to the specifics of what has evolved in this investigation, and those specifics indicate that Mr. Nussbaum did nothing wrong, that Mr. Fiske has indicated that nothing unethical was done, that Mr. Cutler has indicated that in his investigations nothing unethical was done.

There has been a line of questioning that was just pursued indicating that somehow it was wrong for Mr. Nussbaum to inform the President of these inquiries. In any of the conversations that you ever had with the President, did the President indicate or did you feel that there was—that there should be an attempt to influence the process of the investigation that was taking place?

Mr. NUSSBAUM. Congressman Kennedy, I know the President fairly well now. The President never said such a thing, and this President never would say such a thing.

Mr. KENNEDY. I appreciate that, Mr. Nussbaum. Your predecessor in the White House, Boyden Gray, under President Bush, initiated a call to the FDIC to influence the outcome of the Silverado case. Do you, Mr. Nussbaum, ever recall anybody at the Treasury or the RTC, did you ever call anyone at those agencies to influence the Madison case?

Mr. NUSSBAUM. No.

Mr. KENNEDY. Do you think that such a contact from your office to one of those agencies would have been proper?

Mr. NUSSBAUM. To influence the outcome of the case, or to direct the outcome of the case absolutely would have been improper.

Mr. KENNEDY. It would have been unethical and improper?

Mr. NUSSBAUM. It would have been unethical and improper for us to call an executive agency to try to get them to influence the outcome or direct the outcome of a case against the President or anybody else for that matter. That is why I issued strict memoranda, a series of memoranda to the White House staff, to try to limit contacts between agencies and the White House with respect to matters under investigation or adjudication.

Mr. KENNEDY. Mr. Gray, in the Iraqgate matter, Mr. Gray again called the Justice Department to ask why it was looking into the Bush administration's secret efforts to arm Saddam Hussein. Do you ever recall contacting the Justice Department or any other agency in terms of the Madison case?

Mr. NUSSBAUM. No.

Mr. KENNEDY. Do you think that it would have been proper to do so?

Mr. NUSSBAUM. Nor any other case. I was counsel for over a year to the President of the United States. I never picked up the phone to call the Justice Department or any Department to inquire about a matter under investigation or adjudication.

Mr. KENNEDY. Thank you, Mr. Nussbaum.

One final question. I want to clarify just for the record. There has been allegations in the newspapers and the like that you pressured Mr. Altman into not recusing. Now, there has also been these famous diaries that are being circulated. I wonder whether or not, first of all, whether you have seen Mr. Steiner's diary and whether you have been informed, if you haven't seen it, of the contents of the diary and whether or not the notion that you had applied intense pressure to Mr. Altman or told him that his recusal was somehow unacceptable are true?

Mr. NUSSBAUM. Mr. Steiner was not present at the meeting. It is not true that I pressured Mr. Altman not to recuse himself. I described precisely what I said to Mr. Altman.

I said it was something he should carefully consider and ultimately I said, "Roger, it is a decision you have to make, and you alone have to make." That is what I said to Mr. Altman. I believed Mr. Altman to be a person of high integrity. I believed Mr. Altman, if he didn't recuse himself, would do his job in accordance with his duty. I did not pressure Mr. Altman not to recuse himself.

Mr. KENNEDY. I just wanted to say I appreciate the——

The CHAIRMAN. The time of the gentleman has expired.

Mr. KENNEDY. The gentleman from Iowa's comments on the ethics of these officials.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Roth.

Mr. ROTH. Mr. Chairman, as agreed, I yield my 5 minutes to Mr. Nussle from Iowa.

Mr. NUSSLE. I thank the gentleman for yielding.

Mr. Nussbaum, you testified here today that the September 29 meeting was the first time you received a heads-up from anybody related to RTC or the Treasury in this matter. Isn't it true, Mr. Nussbaum, that the September 29 heads-up briefing from Jean Hanson, the general counsel for the Treasury, was not the first heads-up contact you or the White House counsel's office received from Mr. Altman, the RTC, or officials at the Treasury?

Mr. NUSSBAUM. It was the first.

Mr. NUSSLE. So you are indicating to us that you received no heads-up briefing on Madison Savings and Loan or any issue related to this from the RTC, the Treasury, or Mr. Altman?

Mr. NUSSBAUM. To the best of my recollection, I did not.

Mr. NUSSLE. Mr. Chairman, I would like to hand the witness a document which has been marked Nussle exhibit number 1 that I would like to enter into the record at this point.

Mr. Nussbaum, could you tell me what Nussle exhibit number 1 is and when you received it.

[Nussle exhibit number 1 can be found in the appendix.]

Mr. NUSSBAUM. During the September 29 meeting with Miss Hanson, Miss Hanson at some point said that she believed that Mr. Altman may have sent me some material with respect to this matter. I said I had no such recollection. I remembered receiving no material or having no discussion with Mr. Altman with respect to this matter. Mr. Sloan was present at this time. Later on Mr. Sloan came to me and said Miss Hanson told him that she was mistaken. Mr. Altman did not send me any material with respect to the Madison Whitewater Guaranty.

Mr. NUSSLE. I would like to direct your attention to exhibit 1.

Mr. NUSSBAUM. Congressman, could I please finish my answer? You asked me a question. I think I should have the courtesy to——

Mr. NUSSLE. Actually, I asked you about the exhibit itself.

Mr. NUSSBAUM. I am getting to that if you would please let me answer the question. What she did tell Mr. Sloan and Mr. Sloan repeated to me was that she believed that Mr. Altman had faxed me a newspaper article with respect to the Whitewater matter. I said I have no recollection of ever seeing or receiving any such fax.

Mr. NUSSLE. Well, for the record——

Mr. NUSSBAUM. Please, sir, can I just finish my answer? You asked me a question. Can't I finish my answer?

Mr. NUSSLE. Let me go on.

Mr. NUSSBAUM. Do you want to hear the whole answer? Do you want to hear the whole answer, sir? Let me finish my answer. You asked me a question, whether there was any prior contacts. I am trying to answer you.

What I did was I went to my files or I had somebody go to my files, I said did we receive anything, a fax from Roger Altman? This emerged, this document that you have now shown me emerged from my files. It was a fax with a cover sheet and a newspaper article, a *New York Times* newspaper article under it, a March 1992 newspaper article with respect to the Whitewater case and also an article with respect to a case actually that I was involved in, this law firm case.

I, when I saw it, I said I never read this, I don't remember receiving it, I don't remember seeing it. This fax may have come to my office, I have no recollection of ever getting it. I have no recollection of ever seeing it in March 1993, and it is nothing but—nothing but a newspaper article from 1992. That, sir, does not constitute a prior briefing or a prior contact with respect to the Madison Whitewater matter.

Mr. NUSSLE. Mr. Chairman, just for the record, so it is clear, this is a fax that was dated March 24, 1993. The time on the fax is 8:58

a.m. It is to Bernie Nussbaum from Roger Altman from Mr. Altman's private fax number.

Now, Mr. Nussbaum, I would like to, when you were interviewed by our staff, we knew of only one fax, and that fax has—another fax has been discovered by our office, and I would like to present it to you at this point. It was sent to you 12 hours prior to the fax that you are aware of. We were not aware of this second fax.

[The Nussle exhibit number 2 can be found in the appendix.]

It is dated March 23, 12 hours before, at 21:04. My understanding is that that is 9:04 p.m. Again from the private fax of Roger Altman, it appears to be in Mr. Altman's personal handwriting, the cover sheet "to Bernie Nussbaum from Roger Altman, two pages to follow," the exact same fax, incidentally, that was sent to you the next morning, so it appears that Mr. Altman was very interested in making sure that you had a heads-up about something, and it appears that at least this article and maybe other information were to follow.

Now, the other interesting thing——

Mr. NUSSBAUM. Congressman——

The CHAIRMAN. The time of the gentleman has expired.

Mr. NUSSLE. I am in the middle of this last question, Mr. Chairman.

The CHAIRMAN. The gentleman has presented a document, he has raised the issue, and the witness has been given the document. Time of the gentleman to pursue further inquiry has expired, and the witness will be given an opportunity to reply to the submission of that document and comment on it.

Mr. NUSSBAUM. Congressman, two things.

One, this is the exact same fax as the other fax. It is the same articles, it is the exact—it is the identical thing, it was obviously faxed twice. That is what happened. I didn't remember it.

Number two, you say you just learned, I believe when we were interviewed by your staff both these things were discussed with your staff. This is not some new revelation, Congressman. Both of these faxes of the same identical newspaper article were discussed with your staff, so I don't think there is any recent revelation.

In any event, Congressman, most important, I don't recall receiving these faxes, these newspaper articles in March 1993. I don't believe I ever saw them. I never read them. And the first I heard about them is when Miss Hanson alluded to it in our September 29 conversation.

Thank you.

The CHAIRMAN. The Chair will state that the staff has now presented all of the documents that had been held in a confidential environment and were released once we were satisfied that none of the documents we had been holding referred to the yet unfinished investigation by Mr. Fiske and on his request honoring that request. So I wish now to offer for the record, perhaps at the end of our hearing, all of those documents that the staffs and the members have had an opportunity to review and have access to which are now in the public domain, and I believe that will be helpful as we go into this.

Ms. Waters.

Ms. WATERS. Thank you very much, Mr. Chairman.

Mr. Nussbaum, I would like to start by thanking you for your very clear and impressive testimony, and I would like to ask you to bear with me. I know that sitting in that seat sometimes is very uncomfortable, but I would like to ask you to be a little bit more uncomfortable while I try desperately to search for a reason to justify these hearings. I would much rather be with Mr. Gephardt discussing health care reform. It is very important, and I think we are on the verge of something, Mr. Nussbaum, with health care reform.

Mr. NUSSBAUM. I hope so.

Ms. WATERS. I am also working on welfare reform, and I am trying to complete my legislation, but I am here, and I want you to bear with me. Also, I am dying to catch up with what went on in the Crime Conference Committee last evening, I have got some issues over there, so what I may say here today may not be original, may not be creative. As a matter of fact, it is going to be quite redundant, but of course, redundancy characterizes this entire hearing process that we are involved in.

Now, if you can think of anything that I should ask you that has not been asked, send me a note so that I can ask it of you because I really don't have very much more to ask except let me go over some things.

As I understand it from Mr. Cutler's testimony, Robert Fiske has interviewed, deposed, or taken before the grand jury every Treasury and White House official involved in the so-called Treasury/White House contacts during the period September 1993 through 1994, is that your understanding?

Mr. NUSSBAUM. That is correct, and I had the pleasure of testifying before the grand jury.

Ms. WATERS. And he found no criminal violations or no ethics violations; is that your understanding?

Mr. NUSSBAUM. He found no criminal violations.

Mr. Cutler then did his own investigation, and he found no ethical improprieties.

Ms. WATERS. And keeping with that line, Mr. Cutler again interviewed every White House staffer and found no breaches of ethical guidelines; is that right?

Mr. NUSSBAUM. That is correct. He spent 7 hours with me and the staff.

Ms. WATERS. Now, I understand the inspector general of the Treasury Department has shared his transcripts of the depositions with Mr. Cutler and Mr. Cutler's staff; is that correct?

Mr. NUSSBAUM. That is correct. I testified before that inquiry as well.

Ms. WATERS. I understood Mr. Cutler even talked to the President and the First Lady; is that correct?

Mr. NUSSBAUM. I believe that to be correct, yes.

Ms. WATERS. And Mr. Fiske also interviewed the President and the First Lady; is that correct?

Mr. NUSSBAUM. Mr. Fiske did do so.

Ms. WATERS. Again, no criminal violations, no ethical violations that we know about, so I guess I am going to have to try to ask you the same thing that I asked Mr. Cutler, and it is about the press.

As you know, Members of Congress are quite familiar with dealing with the press. Members of Congress and Senators have press secretaries, deputy press secretaries, campaign press secretaries, spokesmen, and so forth. Members of Congress are often trying to get the attention of the press.

However, the press is always interested in covering the White House. There are reporters who have their offices in the White House, their only beat is the White House. Given the press attention White House staff knew would be generated by the news of the criminal referrals, doesn't it make good sense, in fact isn't it the responsibility of those White House staff to obtain the information necessary to respond accurately and consistently to press inquiries?

Mr. NUSSBAUM. That is what I believed then and that is what I believe now.

Ms. WATERS. Do you believe that the White House staff has spent an excessive amount of time responding to press and congressional inquiries?

Mr. NUSSBAUM. That is a tough question.

Ms. WATERS. Is that a tough question? I hit it.

Mr. NUSSBAUM. You did hit it. This is one of the things that surprised me, took me by surprise, even though I had been in Washington before, I had worked for the House Judiciary Committee. The amount of time spent responding to press inquiries, especially with respect to sensationalist material, which there seems to be a lot more of today than there was even 20 years ago, is just enormous, and I do think we spend too much time sometimes trying to deal with these things, but I think when I say that it almost comes out I am politically naive.

In fact, as those words came out of my mouth I now realize why I am back in New York not in Washington, that I was naive, I submit that even I should have spent more time dealing with the press. I thought it wasn't necessary. I thought it wasn't part of my job. I thought I really should just give the President the best legal judgments and advice I could and do the best I could for him.

In thinking back, I think I should have done a better job and I would have done a better job for him as well as myself, if when these contacts, when the stories first came out and this explosion took place, which ultimately resulted in my resignation, I would have done a better job for the President if I would have come out publicly explaining, in the same detail I explained to you today just what happened in each of these meetings, just what I said, just what was said to me, the reasons I did it, the policy considerations I thought I was dealing with, the legitimate official functions I thought I was fulfilling.

I didn't do that when this happened in February, after Mr. Altman's testimony before the Senate Banking Committee. That was a big mistake. It was a mistake which ended up hurting me, but I also think it was a mistake which ended up hurting the President. I could have better served the President if I would have been more outgoing with the press, if I could have—if I would have responded more to the press and explained this conduct and defended this conduct because it was totally defensible. There was no obstruction of justice, as you pointed out. There was no legal violations. That is one claim. There were no ethical violations.

As we now see, there are some policy differences that Mr. Cutler and I may have over certain things, but basically those are legitimate policy differences, one being if somebody raises recusal, what do you do? Do you just tell them to recuse himself, even if he has no legal, ethical obligation to do so? Do you say fine, Roger, if it is in your interests, your political or personal interest, just walk away? Or do you say basically you should carefully consider because there is a policy that people just like you have to do your duty and other people in this room have to do their duty and I had to do my duty, he has to do his duty, that is—look, Mr. Cutler is a wise man.

No one has had a more worthy predecessor than Mr. Cutler—or a more worthy successor. Mr. Cutler both preceded me and succeeded me. He was the last counsel to President Carter and he is the second counsel I guess to President Clinton.

I have been lucky. I have been sandwiched by Cutler on both sides, and he has performed, I believe, superbly, and I think some members of this committee might see that, too, on behalf of the President of the United States. He is a wise man. He is an experienced man, and I take seriously what he says.

I agree, Congresswoman, with a lot of what he says. I agree with his conclusion that there were too many conversations in February by too many people. Some of the principles laid down in my own memorandum, my ethics memorandum, my contacts memorandum were in effect not followed at times, people got carried away a little bit in February, I agree. The contacts should have been channeled. We made a mistake.

I was not a perfect counsel to the President, I was not a perfect counsel. I made mistakes as counsel for the President, some I described already and some you will find out about perhaps some day. I made mistakes.

Ms. WATERS. As a perfect Congresswoman, I want to ask you, is there anything else I should ask you?

The CHAIRMAN. The time of the gentlelady has expired.

Ms. WATERS. Is there anything that has not been asked that I could ask you?

Mr. NUSSBAUM. I made mistakes, but I believe I tried at all times to perform my duties in accordance with the highest ethical legal standards and the standards of my profession.

Thank you.

Ms. WATERS. Thank you very much, Mr. Chairman.

The CHAIRMAN. The Chair will observe that the object of your praise and our witness the day before yesterday, Mr. Cutler, is seated right here. And it puts the end to the story that these hearings are so dreary they wouldn't attract anybody, much less anybody being a glutton for punishment. So we welcome the presence. And I am sure—now I understand why he's here, he wanted to hear your praise.

Mr. NUSSBAUM. I gave the praise not even knowing he was here.

The CHAIRMAN. That makes it all the sweeter.

Mr. McCandless.

Mr. MCCANDLESS. Thank you, Mr. Chairman. I would yield the time allotted to me to the gentleman from Iowa, Mr. Nussle.

Mr. NUSSLE. I thank the gentleman for yielding.

Mr. Nussbaum, my line of questioning was only to jog your memory, that's all it was. And I apologize if you took that personally to suggest that I do not believe you that you did not recall receiving the fax. All I'm suggesting——

Mr. NUSSBAUM. I want to apologize to you, Mr. Congressman, if I seemed to you—my trial lawyer style sometimes gets the best of me.

Mr. NUSSLE. Let me ask—and this is really, I think, the crux. You're not telling us today that it's impossible that you received these faxes or that it's impossible that there was a followup conversation with Mr. Altman?

Mr. NUSSBAUM. I will say—it's certainly not impossible I received his faxes. I will say it's impossible—or virtually impossible; I guess nothing is impossible in this world—that there was a followup conversation. Because I remember conversations like this and I would have remembered any followup conversation with Mr. Altman.

Mr. NUSSLE. Are you aware of when Mr. Altman was sworn in as the CEO, or Acting CEO, of the RTC?

Mr. NUSSBAUM. I believe it was early in 1993. I don't recall the time.

Mr. NUSSLE. My understanding was it was March 15, if that refreshes your recollection.

Are you aware that Mr. Altman, at least according to the interviews that we've had with him thus far, has indicated to us that he worked only about 2 or 3 hours per week on RTC matters? As you know, he was one of only two confirmed Treasury officials at that time, and in fact, there was no general counsel even. And he was working about 2 to 3 hours a week. Are you aware of that?

Mr. NUSSBAUM. If that's what he said, that's what he did.

Mr. NUSSLE. Are you also aware that the very first week that Mr. Altman was on the job as the Acting CEO of the RTC, that he received a briefing from Mr. Bill Roelle about the important cases and issues pending before the RTC, and at that time Mr. Roelle brought up to the attention of Mr. Altman, according to our interviews, the 1992 referrals and issues involving Whitewater and the Madison Savings and Loan? Are you aware that that briefing occurred for Mr. Altman?

Mr. NUSSBAUM. No, sir, I'm not aware of any of those facts.

Mr. NUSSLE. Are you aware that the faxes that were sent to your office—again, not suggesting that they were personally received at this point, but on the 23rd and 24th—were just outside that first week of briefings from Mr. Roelle and just outside of the very first week that Mr. Altman was the Acting CEO of the RTC?

Are you aware of that?

Mr. NUSSBAUM. No, sir, I was not aware of it.

Mr. NUSSLE. Well, what is interesting to me is that on March 23, just outside 1 week of taking office, working, according to Mr. Altman, approximately 2 to 3 hours a week, that Mr. Altman at 9 o'clock at night—so he must have been working late those 2 to 3 hours a week—personally sends you at your office a fax, it appears to be in his handwriting, personally sent on his personal fax machine, no general counsel over there at this point, sends this to you; and then the next morning, 12 hours later, sends another fax, 8:58 in the morning, so almost 12 hours, to your attention, as well. And

what is interesting to me is that it's a 1-year-old article, it is one that, if you'll look at the document, came from an RTC clip sheet. So this is not something that's just lying around; you've got to look for this. You don't just find it lying around your file cabinet, top drawer. Maybe it was in his top drawer. But at least it came from a clipping service for the RTC, and I find this interesting.

And the reason I find this interesting is, you're indicating to us today that this was no big deal, you know, RTC investigation, criminal referrals, Whitewater, Madison Savings and Loan, the President might be involved as a witness, maybe as a witness, not going to be a target, no big deal, not a big thing on our radar, no one was seemingly sensitive to this.

What I'm wondering from you is, from all of this, do you think Mr. Altman thought it might have been a big deal as early as March 1993, and was trying to give you or someone a "heads-up" of things to come?

Mr. NUSSBAUM. Just by sending us—by the way, that was a pretty good summation, you're a pretty good trial lawyer—by sending us just a newspaper article, a 1-year-old newspaper article? No.

If somebody wants to give you a heads-up, they don't send you a newspaper article which is 1 year old and out of date. In fact, it's sort of funny, the article on the other side, it was an article about a case I had in private practice. Maybe he was trying to compliment me on a case in private practice that I had. I don't—this is not the way you send somebody a heads-up.

Mr. NUSSLE. Heads-up are usually done in person, right?

Mr. NUSSBAUM. If you want to send a heads-up, you talk to them. You pick up the phone, you talk to them. I didn't get, sir, any heads-up from Mr. Altman or anyone else in the RTC in March 1993 or any time thereafter until what I testified to with respect to September 29, 1993.

Mr. NUSSLE. Thank you, sir.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LaRocco.

Mr. LAROCCO. Thank you, Mr. Chairman.

Mr. Nussbaum, thank you for your testimony. I hope you realize that you are under oath, and that you just testified, as a New Yorker, that you did not read the *New York Times* immediately upon receipt of it. And you have now returned to New York, and that is public knowledge.

Mr. NUSSBAUM. I returned to New York, sir, in part because the *New York Times* really wanted me to come home. It missed me, sir.

Mr. LAROCCO. Thank you.

The other day, Mr. Cutler gave the committee, and I think America, a very good description of what a criminal referral is. I find it hard to believe that the text of a criminal referral or the actual document itself has never appeared in the press. Have you ever seen a press clipping that had the actual text of the criminal referral in it?

Mr. NUSSBAUM. No, sir, I never did.

Mr. LAROCCO. No press has ever printed this criminal referral, but it was the subject of press inquiries; is that correct?

Mr. NUSSBAUM. That is correct, sir. Shortly after it was made, it was the subject of press inquiries.

Mr. LAROCCO. And you have never seen the criminal referral?

Mr. NUSSBAUM. I have never seen this referral or any criminal referral while I was in the White House, with respect to Madison, Whitewater, or anything else, for that matter.

Mr. LAROCCO. Mr. Nussbaum, you served as (I'm not going to say it correctly) a senior associate counsel on the Watergate Committee?

Mr. NUSSBAUM. Senior associate special counsel.

Mr. LAROCCO. Special counsel.

Mr. NUSSBAUM. Fancy title.

Mr. LAROCCO. Not bad. On a scale of 1 to 10, having been involved in the Watergate hearings, how would you rate the Whitewater issue, with 10 being the most serious breach of trust with the American people?

Mr. NUSSBAUM. I am glad you asked me that question, because I was watching television when Mr. Cutler was testifying. Mr. Cutler was asked the same question. I said, how is he going to answer that? That's a tough question to answer, you know, 1 to 10.

And Mr. Cutler said Watergate was a 10, and Iran Contra was a 10-plus or something like that. And he said this was a one or two. And I must admit, with Mr. Cutler sitting here, I winced a little bit, because I don't even think it's a one or two. I think it's a 0.025 on a scale from 1 to 10.

Mr. LAROCCO. We'll average them out, I guess, after the hearing.

On page 17 of your testimony, and beginning on page 16, you seem to have gone out of your way, in response to the news about Jay Stephens, in saying; "I shook my head in disbelief. I said that the appointment of Mr. Stephens was ridiculous and unfair."

You seem to have had the same reaction that Congressman Newt Gingrich had when he found out that the American Medical Association supported universal health coverage. But you seem to have gone out of your way here to make that statement, perhaps expressing the sentiment of those around the White House at that appointment.

Can you elaborate?

Mr. NUSSBAUM. Well, yes, I mean this—I recall very vividly, Congressman, in March 1993, we had just come into office, we were seeking to create a strong independent Justice Department. We found an Attorney General who is a strong independent, powerful Attorney General. She surrounded herself with a great team. She asked, as Attorneys General normally do, for U.S. attorneys to submit their resignations, and then she would accept them in due course over a period of time.

Some resignations were accepted, some were not accepted, some Republican U.S. attorneys stayed on such as Mr. Chernoff, who is now the special counsel to the Senate Banking Committee on this inquiry.

Mr. Stephens resigned immediately, with an enormous blast to Ms. Reno, blasted the administration, saying he was being run out of office because this was an effort to interfere with the Rostenkowski case and this was outrageous conduct. Thereafter, he announced he was going to run as a Republican candidate for the Senate in Virginia, as is his right to do.

As Mr. Cutler said of Mr. Stephens, the other day, I have no reason to believe he's not an able lawyer or a good and decent lawyer, but he was clearly a major political opponent of this administration who blasted us in May, as we were trying to do the good things we wanted to do, put in a strong, independent Department of Justice, appoint a good, strong, competent Justice. He's blasting us at that point, he's running for the Senate, he drops out and, lo and behold, who is appointed in February 1994 to investigate the President and Mrs. Clinton and others with respect to a sensitive civil matter? (Mr. Fiske was investigating the criminal matter.) Jay Stephens.

And we in the White House, as I said in my statement, I just shook my head in disbelief and in dismay. I said it was ridiculous and unfair. But I also said, because I knew this was a decision the RTC made under Mr. Altman—under Mr. Altman and other others at the RTC. I knew they made that decision. It was their decision to make this. There is nothing we should or would do about it. And that's the instructions I gave.

They appointed him; let him conduct his investigation. Hopefully, in the final analysis, he will be an honorable lawyer and come out with a correct result; but there's nothing we should or would do about it. But were we upset, were we dismayed? Absolutely.

Mr. LAROCCO. Thank you, Mr. Nussbaum.

Mr. Chairman, I just say in closing that I find it hard to believe the press has not published the text of the criminal referral that is the subject of so much of this hearing.

I thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Baker.

Mr. BAKER. Thank you, Mr. Chairman. Before I yield time, I wish to renew a request for documents which have previously been requested from the White House, Mr. Cutler, as of yesterday, concerning 65 pages of redacted information. It has not yet been received, and I now yield such time as the gentleman may consume to Mr. Nussle.

Mr. NUSSLE. Thank you.

First of all, Mr. Nussbaum, we intend to ask these same questions of Mr. Altman, so I am not intending to suggest this is an issue that is appropriate only for you.

Second of all, does this not establish a pattern, these faxes, and information that was sent; doesn't this suggest a pattern on the part of Mr. Altman which, interestingly enough, is outside of the Fiske report and outside of the Cutler report? I mean, those reports deal with September on. These are things that happened in March. Don't you believe this suggests a pattern on the part of Mr. Altman——

Mr. NUSSBAUM. No.

Mr. NUSSLE. Of making sure the White House is apprised?

The CHAIRMAN. Order.

Mr. NUSSLE. Thank you, Mr. Chairman.

Mr. NUSSBAUM. No, I don't believe there's any pattern.

Mr. NUSSLE. Are you aware—I am sorry.

Mr. NUSSBAUM. I received a fax I didn't remember receiving, of a 1-year-old newspaper story, and nothing else happened, no conversations or anything, nothing else happened until September 29.

I think it's stretching it, sir, with all due respect. Although I recognize a lawyer on the other side would like to make that kind of argument, I think it's stretching it, sir, to claim that that is a pattern.

Mr. NUSSLE. Are you aware that Mr. Altman directed Ms. Hanson, directly, to come over and provide this briefing to you?

Mr. NUSSBAUM. I was not aware of that; I was not aware of that on September 29. Obviously, I've read things in the newspaper since, but on September 29 I was not aware of it.

Mr. NUSSLE. Are you aware that, or did Ms. Hanson tell you that Mr. Bill Roelle at the RTC told Ms. Hanson upon briefing her on the 1993 referrals, he told her, don't tell anybody except Mr. Altman, don't tell anybody over at the White House; this is information that you can tell Mr. Altman, I'm briefing you, but this isn't for anyone else? Are you aware that Ms. Hanson came over there with that knowledge?

Mr. NUSSBAUM. No, I am not aware of that; and I'm not even sure it is true, sir.

Mr. NUSSLE. Well, that's what Ms. Hanson is telling us, and that's also what Mr. Roelle has told us in interviews.

Mr. NUSSBAUM. It's hard for me to believe that Ms. Hanson would come to the White House after being told not to come, don't tell anybody, not to come to the White House. Ms. Hanson is a good and honorable and able lawyer. She's a wonderful human being, and she is an excellent lawyer.

And I believe at all times—just as I believe I was doing my duty and acting in accordance with the highest ethical and legal standards of our profession, I believe exactly the same thing about Ms. Hanson. It was a pleasure to deal with her. She was a straight person. She was a decent person. She was an honest person. And she was trying to do her job as best, as she saw it, in enabling the White House to perform its official functions. And she has absolutely nothing to be ashamed of.

Mr. NUSSLE. Did you ask Ms. Hanson—when she came over to brief you on the 29th, did you ask her if it was appropriate for her to be relaying this kind of heads-up information to you?

Mr. NUSSBAUM. Actually, it's interesting; I did not ask her because I believed it was appropriate, because it was part of our official function. But when I called in Mr. Sloan and had her repeat the conversation to Mr. Sloan, Mr. Sloan then went back to work basically with her in helping us to respond to press inquiries. Mr. Sloan then consulted with another experienced lawyer in my office, Neil Eggleston, a former prosecutor, assistant U.S. attorney. And they discussed it among themselves, I learned later on.

They are good staff members; they see a potential problem, they go back and talk among themselves to see if there is a problem. They discussed among themselves, as I am happy they did, is there any problem with us receiving this information in order to respond to press inquiries? They then both did some research, discussed it with each other, did some research, and concluded, just as I had concluded—instinctively, I guess, when she came to me and I knew

it was part of our official functions—my two staff members concluded there was absolutely nothing wrong in us receiving this information, because we were receiving it for an official purpose to answer personally.

Mr. NUSSLE. It appears that they were concerned that it's at least possible—let me finish. It appears then, if they went out—and these are two former Supreme Court clerks; these are not shoddy individuals, as I can attest to; these are folks that don't just go to the Supreme Court for no reason. They have a gut instinct, and they know how to do research. That going back and doing research suggests to me that somebody was concerned about this information transfer.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NUSSBAUM. Congressman, one of the reasons—one of the reasons I've been a success in life is I've always managed to surround myself with people a little smarter than me. And they did go out and they did research it, and they reached the same conclusion that I reached.

Sometimes my staff members don't reach the same conclusion I reach. And when they don't, they feel free to tell me so, and they have told me so from time to time.

The CHAIRMAN. The time of the gentleman has expired and the witness has requested a brief recess for personal purposes.

Mr. NUSSBAUM. Thank you, Mr. Chairman.

[Recess.]

The CHAIRMAN. The committee will please come to order.

The committee will please come to order. The Chair will recognize Mr. LaFalce.

Mr. LAFALCE. Thank you very much, Mr. Chairman. As chairman of the Small Business Committee, I had to leave the hearing a bit early to go to the Rules Committee to testify on behalf of the SBA Reauthorization bill. So I missed a bit of the question and answers. But it seems to me that considerable attention is being given to what is legal or illegal, appropriate or inappropriate, about giving heads-up to individuals within the White House or the administration.

In addition to serving as a senior member of this committee, I do have the honor of serving as chairman of the Small Business Committee, and myself have had to conduct several investigations. In 1988, for example, I had to investigate activities involving individuals who either did work or previously had worked in the office of Senator Robert Dole. There was considerable interest in this issue on the part of certain of Senator Dole's staff members, as there was considerable interest in that matter by staff members in the Office of the then-Vice President of the United States.

In the subsequent year, as chairman of the Small Business Committee, I conducted an investigation into the activities of the son of the then-President of the United States, in connection with employment he had for a specialized small business investment company. In neither of these investigations did I deem it appropriate to conduct a public hearing, nor a press conference, nor even issue a press release. But we did conduct thorough investigations with respect to the investigation in 1988 of activities in the office of Senator Dole.

There were Members of the minority party at that time who were supporting Senator Dole for the Presidential nomination of the Republican Party, Members who were supporting then-Vice President Bush. They showed great interest.

When President Bush was in office as President, there was also great interest in the activities of his son. At no time did I think it inappropriate to share preliminary results of that investigation with members of my committee, nor did I deem it inappropriate to have personal conversations, for example, with your predecessor, Mr. Boyden Gray, regarding the progress and findings of my investigation. I had telephone conversations with him; indeed, I had him in my office.

Was there anything inappropriate about sharing the results of the investigation with the White House counsel, Mr. Boyden Gray, with respect to the activities of President Bush's son, Neil? Was this heads-up in any way criminal, illegal, unethical, or indeed was it customary as far as you're concerned, Mr. Nussbaum?

Mr. NUSSBAUM. I think the way you describe it, I don't know the facts, obviously, other than as you describe it, sir.

Mr. BACHUS OF ALABAMA. Mr. Chairman, is that inside the scope of this hearing?

Mr. NUSSBAUM. I don't see any problem. I mean, as long as Mr. Gray is receiving information for official purposes to enable the White House to either deal with press inquiries or deal with congressional inquiries, which is another official reason, there is no problem with receiving such information.

But, again, I am speaking about a situation I don't know the facts about.

I do know the facts about this situation.

Mr. JOHNSON. Point of order.

Mr. NUSSBAUM. I'm sorry.

The CHAIRMAN. The Chair will state that the dead hand of the past ought to be laid to rest; however, the Chair was being considerate of Chairman LaFalce's recital of his personal experience having to do with—what do they call it—heads-up or whatever. So for that reason, if the gentleman has a question pertinent to the present situation, I would ask him to so formulate it.

Mr. LAFALCE. Well, I thought it was very appropriate to go into previous experiences when an investigation was being conducted in a totally nonpartisan manner, and in which appropriate heads-up was being given so that appropriate responses could be made to the media. And I think that this is customary.

And surely, Mr. Nussbaum, in preparing yourself for the discharge of your duties as White House counsel, you must have had discussions with previous White House counsel about the manner of conducting your responsibilities.

Mr. NUSSBAUM. Yes, sir.

Mr. LAFALCE. I am sure you had discussions with Mr. Lloyd Cutler.

Did you have any discussions with Mr. Boyden Gray?

Mr. NUSSBAUM. I did. I was privileged to meet virtually every prior White House counsel since, I think, the mid-1970's. Mr. Cutler, Boyden Gray, Mr. Lorensen, Fred Fielding, Leonard Garment. You know, we got together——

Mr. LAFALCE. All distinguished, honorable individuals.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAFALCE. Do you believe that the activities that you engaged in, in connection with what has euphemistically become known as Whitewater, would have been basically in conformance with the advice given to you by all these previous White House counsels?

Mr. NUSSBAUM. I must say, sir, the White House counsels are known to disagree among themselves from time to time. So I don't want to put any words in their mouths. I believe they sought to act, from everything I know, in the highest traditions of the office, as I sought to act.

I'm not saying we always agree with each other. Mr. Cutler and I agree on many things, but don't agree on everything. By and large, I believe that I acted in accordance with the basic principles of the office, as I believe they did.

The CHAIRMAN. The time of the gentleman has expired.

The question has been asked of me about whether or not we should observe a lunch break. And on that, as far as I'm personally concerned, I would defer to the witness if he feels that's necessary.

As far as I am concerned, I am prepared to go through. However, I want to be respectful of the wishes of the majority.

Mr. FRANK. Mr. Chairman.

The CHAIRMAN. Mr. Leach, do you have any——

Mr. LEACH. Mr. Chairman, as this member has always been impressed with the thoroughness with which the Chair conducts hearings and the steadfastness of his efforts, the minority would be very pleased to proceed at your discretion.

Mr. FRANK. Mr. Chairman, maybe we could all yield our lunch to Mr. Nussle.

Mr. NUSSLE. I'll be glad to fax out for an order.

The CHAIRMAN. Then we shall proceed. And I believe Mr. Nussle——

Mr. NUSSLE. Thank you, Mr. Chairman. And I would yield my time to the gentleman from Texas, Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Nussle.

That's a switch, isn't it, Mr. Nussbaum? I would like to just draw your attention to the fact that you have said that this so-called Whitewater incident wouldn't amount to anything, when in fact we now know that there were alleged documents shredded in the Rose law firm as early as the summer of 1992; that after the Presidential election, there were shredded documents alleged in December 1992; that delinquent tax returns were filed; that Mr. Foster died, and files were removed. And, ethically or unethically, notwithstanding the claims of unethical responses that were made to Foster's death, or even claims of obstructing justice by some, thwarting law enforcement investigations, which you were involved in to some degree, you have been protective and a shield to the President—which is your job, and I respect that.

We need to talk about the RTC part of this episode, though, so I can't ask you any questions on the other. But I just want to point out that this issue was a rising concern to the whole country and had been and is still part of our interest.

Mr. NUSSBAUM. The record should note, Congressman, I disagree with virtually every description of prior events that you claim to

have taken place. I do not agree that those things happened. And I don't think fair, disinterested, objective people necessarily agree.

Mr. JOHNSON. It's not true that you kept law enforcement out of that office for 30 hours?

Mr. NUSSBAUM. Excuse me?

Mr. JOHNSON. You kept the people out of Foster's office for 30 hours.

Mr. NUSSBAUM. At the appropriate time I will be glad——

Mr. MFUME. Point of order, Mr. Chairman.

The CHAIRMAN. The point of order is well taken.

The gentleman is delving into an area which we had clearly at the outset indicated was outside the scope of this hearing, since it would impact on the continuing investigation by the special counsel. So I ask the gentleman to withdraw that question, and proceed with the matter on hand.

Mr. JOHNSON. Of course, Mr. Chairman.

Mr. Nussbaum, let me just ask you this question. In response—Tuesday, in response to a question by Mr. Bereuter about White House contacts with the Justice Department, Mr. Cutler told this committee that you, Mr. Nussbaum, had three or four contacts with the Justice Department. I wonder if you could tell the committee what these contacts were, and did you have any contacts with other agencies such as the Small Business Administration, with regard to the Whitewater affair?

Mr. NUSSBAUM. I have no contacts with the Justice Department with respect to the Madison/Whitewater affair. Mr. Hubbell was recused from Madison. I never discussed the Madison/Whitewater affair even with Mr. Hubbell, but Mr. Hubbell was recused from the matter. And I recall at about the time the independent counsel was being appointed, names were being mentioned in newspapers, speculating—one or two conversations with Mr. Hubbell as to who—just social conversations as to who the Attorney General might appoint.

I don't know what other contacts you're talking about. I had no improper contacts or no contacts at all with the Justice Department.

Mr. JOHNSON. Did you have any conversations with Paula Casey, who was the U.S. attorney in Little Rock?

Mr. NUSSBAUM. No.

Mr. JOHNSON. None at all?

Mr. NUSSBAUM. None at all.

Mr. JOHNSON. Your staff didn't either?

Mr. NUSSBAUM. None of my staff did either.

Mr. JOHNSON. Did your staff talk to any of the Justice Department people?

Mr. NUSSBAUM. About Madison and Whitewater?

Mr. JOHNSON. Yes, sir.

Mr. NUSSBAUM. Not to my knowledge. Justice Department people, we had no contact with Justice Department people.

Mr. JOHNSON. OK. Well, Mr. Cutler had made mention of you talking to them about Freeh or some of the other——

Mr. NUSSBAUM. I had——

Mr. JOHNSON. Judge Freeh.

Mr. NUSSBAUM. About the employment of Judge Freeh?

Mr. JOHNSON. No, about Whitewater.

Mr. NUSSBAUM. I never had any contact with Judge Freeh, the head of the FBI, about Whitewater.

At one social conversation in January 1994, where we went out to dinner with our wives—again, it was the middle of the time that a special counsel was appointed, Mr. Fiske's name and others had been mentioned in the newspapers, and we both expressed at that dinner, that social dinner, our mutual regard for Mr. Fiske.

Mr. Fiske was somebody who had recommended Mr. Freeh to me to recommend to the President to head the FBI. By the way, sir, I think that was an excellent recommendation by Mr. Fiske. I think Mr. Freeh's appointment has been an excellent appointment; and I think he's going to make one of the great Directors of the FBI, and it's something I am particularly proud of.

But I had no contact with Mr. Freeh with respect to the Madison/Whitewater matter at any time.

Mr. Freeh is a man of great integrity, great strength, as I think both sides of the aisle recognized, and will be a great FBI Director.

The CHAIRMAN. The time of the gentleman has expired.

I guess the proper thing is to recognize you. Since you were using the 5 minutes yielded, we'll recognize you for your 5 minutes.

Mr. ORTON. Don't I get a chance in between? I think I'm next, and then you go to him again for his questions.

The CHAIRMAN. I beg your pardon, Mr. Orton.

Mr. ORTON. Thank you, Mr. Chairman, I appreciate the opportunity.

And Mr. Nussbaum, thank you for coming. As we all know, the special prosecutor has issued a report saying there were no violations of law involved in the contacts between RTC, Treasury, and the White House. The next question raised is whether those contacts were ethical. Executive branch ethics guidelines prohibit the improper use of nonpublic information.

Do you, Mr. Nussbaum, consider any of the information that you received regarding the Madison civil investigation and criminal referrals to be nonpublic as defined by the regulations?

Mr. NUSSBAUM. Well, it may have been, sir, that when we were initially given some of this information, a portion of it was, quote, "nonpublic," unquote. It shortly became public, it shortly was leaked, but maybe for a short instance, it was nonpublic.

But the issue, as I said in my statement, Congressman, with all respect, is not whether the White House gets nonpublic information, because we get nonpublic information all the time. The question is whether it's properly transmitted for an official, public, legitimate purpose. And I said even if this information was nonpublic—and if it was nonpublic, it wasn't nonpublic for long—but even if it was nonpublic, we received it for legitimate purposes, to help us respond to press inquiries. The President was not a target of this investigation, was not a potential defendant. But people would likely try to smear him by the fact that his name was mentioned as a potential witness. We had to be ready to answer that, because if we couldn't answer that, it would hurt the President, it would hurt the functioning of the Presidency, it would hurt the way we operate our system of government. We have to be in a position to do that.

I'm sorry I took so much of your time.

Mr. ORTON. I also understand that two members of your staff actually researched that issue and came to the same determination, that it would not be improper receipt or use of information.

Mr. NUSSBAUM. That's correct, sir.

Mr. ORTON. And you're now stating that you did not use any of this information in an improper manner as defined by the regulation?

Mr. NUSSBAUM. Absolutely not.

Mr. ORTON. OK. Well, I am somewhat astounded by the fact that the minority party has shifted to taking in this particular hearing. As Mr. Leach said at the beginning of this hearing—he said, we have no concern, or our problem is not with the staff. It's above the staff level.

Given the witness list in this hearing, there's only one person above the staff level. That's the President of the United States. And the allegations that were made by Mr. Leach yesterday—or at the end of the last hearing, which showed up as tabloid journalism in the *Washington Times*, is an allegation that the President himself received information—that Mr. Sloan told Mr. Lindsey, Mr. Lindsey told the President, the President himself unlawfully and improperly passed on information to a target of a criminal investigation.

And I would just like to refer to a letter which I understand the chairman is going to submit into the record, a letter sent by Lloyd Cutler to the chairman of the committee following his testimony on this issue. He has also included an October 5 schedule, or memorandum from the White House, regarding the October 6 meeting with Governor Tucker and the President, outlining who was going to be in the meeting, what the topics of discussion would be.

And, in fact, quoting from the letter, it says Mr. Keith Mason, Deputy Assistant to the President for Intergovernmental Affairs, was present for the entire meeting. He confirmed that the subjects of Whitewater, RTC, criminal referrals, or Madison Guaranty were never discussed.

So I would just like to get that onto the record, and suggest that these charges are absolutely outrageous, unfounded, and when put forward in this manner for all the public to read, that there's a hint that the President has done something wrong, and we never have an opportunity to get back to clear the record and show that in fact nothing was done wrong, that smacks of McCarthyism, and I hope this committee will abhor that kind of activity. Do you have any comment you'd——

Mr. NUSSBAUM. Yes, sir. That's a good example of what we were trying to counter when we received a limited amount of information, just to put us in a position to be able to respond to press inquiries, that kind of misinformation, disinformation, malicious kinds of statements which are just not warranted.

And if you're in the White House, the President on down, you have to be in a position to answer. You have to be in position to defend yourself. You have to be in a position to fight back. If you don't, you're not going to be able to govern. You're not going to be able to do what you were elected to do on behalf of the American people.

Mr. LEACH. Point of personal privilege.

The CHAIRMAN. Yes.

Mr. LEACH. The gentleman has used my name, and I request the right to respond.

The CHAIRMAN. OK.

Mr. LEACH. Well, first, I think it ought to be very clear that the words the gentleman from Iowa put in the record yesterday and began the statement with today are precisely correct. No allegation is made that is not precisely accurate.

And what was put in the record was a series of meetings that occurred and the timeframe of those meetings. No allegation was made that anything was revealed, but the circumstance was very clearly laid out of what occurred.

In terms of misleadingness, the President's counsel testified before this committee that Mr. Lindsey had no knowledge prior to the President's meeting with Mr. Tucker, of the circumstance that a criminal referral might relate to Mr. Tucker.

Today, the White House has issued a clarification that supports the view of the gentleman from Iowa. That view being that on September 30, based on material we provided in the record, that Ms. Hanson had briefed Mr. Sloan, who then briefed Mr. Lindsey. And so the White House has clarified for the record and has acknowledged the correctness of the position of the gentleman from Iowa.

And so with the greatest respect for my good friend, I would stress the gentleman from Iowa has made no allegation. The gentleman from Iowa has corrected the White House record. The White House has accepted that correction.

The CHAIRMAN. The record should show that the referral to this letter from the White House that both Mr. Leach and Mr. Orton have referred to should be in the record at this point.

[The information referred to can be found in the appendix.]

Mr. LEACH. Mr. Chairman, I would also like to point out it is close to a violation of the House rules to use pejorative language such as the word "McCarthyite." And I would warn this committee that it can be McCarthyite to claim McCarthyism. And I just raise that in an abstract sense.

Mr. BACCHUS OF FLORIDA. Would the gentleman yield?

Mr. LEACH. And I stand very carefully behind the words of my opening statement.

Mr. BACCHUS OF FLORIDA. Will the gentleman yield?

The CHAIRMAN. No. No, I will not recognize you for that.

Let the Chair state, in observing that I think your point is well taken, the duty of the Chair under the rules is very clear, and that is to respect the dignity and the rights of the members, that decorum and dignity prevail in the process of a hearing, and that all of the rights that are pertinent to the witness will be strictly observed.

And the Chair has at times been on the verge of pointing out that words such as tend to be pejorative and inflammatory are out of order, as well as attempts that have been made that I did not interfere because I—at the time, the witness was handling it perfectly.

And whenever I see somebody that—as in the words of a famous thinker, if somebody is committing suicide, you don't go out and shoot them. Just let him go on his own steam.

And, therefore, I would say, though, that the gentleman has made a very pertinent observation to the duties posited in the Chair by the rules of the House and that I will in the future be careful to respect the rights of the witness not to be badgered, not to be, again, referred to in a demeaning or disrespectful fashion, as was the case yesterday, I will recall.

The rules have been the result of many years of experience in the House of these hearings. And, in fact, part of the period that the words referred to led to the biggest wholesale restructuring of the rules for the protection of witnesses after 1954 that the House has registered.

So I have believed that we, attempting to be lawmakers, must be observers of the law as well. And that means the rules.

So I do agree with the gentleman that we should avoid and should prohibit, and if it's in my power to do so, I will. So words that would tend to demean or bring about ridicule or, as I used the word the other day, contumely, on either members or witnesses——

Mr. FRANK. Mr. Chairman.

The CHAIRMAN. For what purpose does the gentleman seek recognition?

Mr. FRANK. I am going to give up demeaning, but are you really going to take away ridicule?

The CHAIRMAN. Well, you know, one man's ridicule may be another man's dignity.

Mr. MFUME. Mr. Chairman.

The CHAIRMAN. Yes.

Mr. MFUME. One person's ridicule.

The CHAIRMAN. OK. I stand corrected. I believe we were coming back to Mr. Johnson for his 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman. You must have learned all that philosophy in San Antonio. I don't know where else you could find it.

The CHAIRMAN. Well, I guess I picked it up all along the way.

Background—I won't go into that. But I'll say this. I had an uncle that was known in those very, very fateful days—you know, families were really together. They were churchgoing, and my mother was the most religious person I've ever known, much as a nun.

And this uncle would shock everybody, his name was Manuel, Uncle Manuel, because he would talk against the church from Monday through Saturday, then on Sunday go to mass. And my mother would say, Manuel, how can you be so? She said, well, why do you go to church then if you—he said, well, that's just in case I'm wrong.

Mr. JOHNSON. That is great. You reckon you could reset that clock for me, Mr. Chairman? Thank you, sir.

You know, Mr. Nussbaum, I have to tell you that Mr. Cutler did sandwich you—you used that term—yesterday or Tuesday. You know, I kind of thought that he had some of the sharpest criticism for you of anybody during his testimony. And yet you really praise the gentleman.

My understanding is that Mr. Cutler also requested before he came over here that the Treasury inspector general, which is, as you know, an office that's supposed to be separate and by itself, provide him with copies of interviews conducted. And they hadn't even finished their testimony, and I understand those were provided at the Secretary of the Treasury's request. And I wonder if this is in your view kind of smacks of political interference a little bit. Would you have done that if you would have been the counsel?

Mr. NUSSBAUM. I'm sorry. Maybe I——

Mr. JOHNSON. Obtain IG reports to help you in your testimony? Before they finished the reports?

Mr. NUSSBAUM. Mr. Cutler, I believe I heard—I'm no longer in the White House. Mr. Cutler, I believe I heard—just received transcripts—just received information with respect to what people were telling the IG so he can conclude his investigation.

Mr. JOHNSON. Those things are generally classified, are they not? At least confidential until the report is completed?

Mr. NUSSBAUM. No, sir, I don't believe there's anything improper about the IG of Treasury, in conducting a similar kind of investigation that Mr. Cutler is conducting, sharing with Mr. Cutler whatever information that they have obtained so a determination can be reached by Mr. Cutler and by Treasury and by the Office of Government Ethics as to whether there was any ethical impropriety here.

I mean, that's—here government agencies are working together, conducting an investigation to determine whether or not there was ethical impropriety. That's an official, proper, legitimate function. There's nothing wrong with that. Government agencies work together all the time for legitimate, official purposes. It's not a proper function to try to fix an investigation or interfere with an investigation.

Mr. JOHNSON. OK. Let me follow up with that, if I may. And you were privy to the information that we've been discussing all morning. If that same information had come to you about a Cabinet official, would you have responded the same way as you did in the President's staff?

Mr. NUSSBAUM. Well, it's a—I'm always afraid, sir, of answering hypothetical questions because it leads down a slippery slope. But I think, you know, the White House should be in a position to receive information which will enable it to respond to legitimate press inquiry.

Mr. JOHNSON. I agree. I agree that the counsels ought to probably know. But I'm wondering. You know, you told Mr. Lindsey and I think others—and I just don't know if the public aspect of that is proper.

Let me ask you one more question, because we're about to run out of time. This may sound silly to you, but I'd like you to confirm with me that you did not tape record or record in any manner those meetings that were held in your office or in other offices of the White House.

Mr. NUSSBAUM. I so confirm.

Mr. JOHNSON. You're an honorable gentleman. I thank you for that answer.

And I thank you, Mr. Chairman.

The CHAIRMAN. We have about 11 minutes, so we can have another 5 minutes, Mr. Bacchus.

Mr. BACCHUS OF FLORIDA. Thank you, Mr. Chairman.

Mr. NUSSBAUM. Mr. Chairman, I understand, by the way, with respect to the transcripts that you mentioned——

Mr. BACCHUS OF FLORIDA. Mr. Chairman, this is not on my time, is it?

The CHAIRMAN. No. No. The Chair will recognize for clarification the witness.

Mr. NUSSBAUM. Yes, those transcripts, these IG transcripts—I just think the record should be corrected right now—were received pursuant to an agreement that the White House not share them with witnesses or lawyers but merely to enable Mr. Cutler and staff to reach the conclusions, to write the report that they ultimately wrote and presented to your committee yesterday—the other day.

I think that's an appropriate and proper way of functioning. Mr. Cutler is very sensitive to these issues. If he wasn't sensitive before, my life has made him sensitive to these issues.

The CHAIRMAN. Mr. Bacchus.

Mr. BACCHUS OF FLORIDA. Thank you, Mr. Chairman.

Mr. Nussbaum, I am shocked, shocked that someone faxed you a copy of an article from the *New York Times*. I want you to know that. I'm confident that Mr. Nussle has read every fax he's received this week from any special interests relating to health care reform. I know that I have. And I certainly would continue to do so.

In all seriousness, sir, and for the benefit of those who are suffering with us through these deliberations, the special prosecutor has found no violation of law. Mr. Cutler has told us that his investigation has led to the conclusion that there were no ethics violations.

We have seen nothing even resembling real evidence, except for conspiracy theorists, of any kind of investigation—of interference in any investigation. There is no crime. There is no coverup. There is no news. I think the American people can see through the demagoguery that we've witnessed today. And I'm willing to take the chairman's sage advice and not shoot someone who is committing suicide.

But let me get to something to which I'd like to give you an opportunity to reply. Mr. Leach said at the outset today that he had no desire to taint anyone's reputation. And I take Mr. Leach at his word. I'll let history decide what the motives are of the people who are involved in these hearings.

He also said, to his credit, that you had, quote, sacrificed much for public service.

Sir, my question is this. Now, having left the position, having returned to New York, do you regret having taken the position in the first place? Do you feel that you have sacrificed too much? Do you believe that others who are witnessing these deliberations should take up the calling of public service?

I must confess that I have seen nothing in these hearings this week that has led me to question my decision not to seek reelection to the Congress. I'm proud of serving, and I want to continue to serve in some way. But what do you think? What—what is your conclusion from all this?

Mr. NUSSBAUM. That's a—that's a hard question, and it's an emotional question.

As I said in my statement, I was proud and honored to serve as counsel to the President of the United States. I believe that I contributed a fair amount during my year in office, little over a year in office, to the able functioning of our government.

I am very proud, sir, of the appointments of the Department of Justice headed by Ms. Reno. I'm very proud of the appointment of Mr. Freeh. I'm very proud of the appointment of Ruth Bader Ginsberg and now Steve Breyer to the Supreme Court. I'm very proud of our judicial appointments.

I do not regret one minute that I served as counsel to the President. I would do it all over again, exactly—I wouldn't do everything I did all over again. I don't want to—I made mistakes. I did make mistakes. I would correct some of those mistakes, in retrospect.

But this was a high honor the President gave me, and I was very grateful for that honor. I continue to be grateful today. I am proud to have been a public servant. I will always be proud.

There has been pain. But I would advise people to continue to go into public service. There is no higher calling than serving the administration or the President or serving the Congress or serving the judicial branch.

So this hasn't discouraged me, and it shouldn't discourage other people. Should make them a little careful. They should be a little wiser perhaps than I was. But the people of this country need them, and they should willingly serve.

And whatever sacrifice I have made—I have made some sacrifices—have been more than compensated by the—by the good that I think I've been able to do and by the good feelings that I have about the job that I was able to have.

So I don't want you to feel sorry for me. I am happy to have served, and I will never forget it as long as I live.

Mr. BACCHUS OF FLORIDA. Thank you, Mr. Nussbaum.

Thank you, Mr. Nussbaum. I only wish there were more people such as you who were willing to serve. You certainly have inspired me to maintain my willingness to serve.

Thank you, Mr. Chairman.

The CHAIRMAN. We have a recorded vote now, and there are about 5 minutes to allow us to record our votes, so we will recess briefly and I urge members to come back as soon as possible.

[Recess to vote.]

The CHAIRMAN. The committee will please come to order.

When we left, we were going to recognize Ms. Pryce, but she is not here, so we will recognize Mr. Linder.

Mr. LINDER. Mr. Chairman, I pass.

The CHAIRMAN. Mr. Gutierrez.

Mr. GUTIERREZ. Thank you, Mr. Chairman.

Let me begin by clearing up some questions earlier regarding my friend Mr. Frank's statement regarding who on this committee supported extending the statute of limitations on the RTC. This is, I believe, a critical point, the statute of limitations that allowed the investigation into Madison Guaranty to continue.

Let me reiterate without this extension the matter would have been dead, at least in terms of the civil suits. We would not be having many of the discussions here today.

And yet in this committee, voting against the extension, despite the strong support of the Clinton administration, were Mr. McCollum, Mr. Roth, Mr. McCandless, Mr. Baker, Mr. Johnson, Ms. Pryce, Mr. Linder, Mr. Knollenberg, Mr. Lazio, Mr. Grams, Mr. Bachus, Mr. Huffington, Mr. Castle, Mr. King, voting against the extension of the RTC.

Again, on September 14, 1993, in the midst of the dates of the context we are discussing, extending the RTC statute of limitations was considered on the floor of the House. Every Democrat, and I want to underline this, every Democrat on this committee supported extending the extension, and I just need to ask Mr. Nussbaum, did you call anybody on the committee and ask them not to vote against the extension of the RTC?

Mr. NUSSBAUM. I did not call anybody; nobody in the White House I believe called anybody, indeed the President, of course, as the Congressman is aware signed the legislation.

Mr. GUTIERREZ. Thank you. Every Democrat, and that is despite the opposition, we were able to give RTC extended ability to look into the matter, and I am glad we were able to do that. Having cleared up this matter, I want to thank Mr. Nussbaum for being here.

I appreciate your candor and your willingness to answer the same questions over and over and over again. In fact, I feel as I did on Tuesday, Mr. Chairman, that despite the fact that the special counsel, Robert Fiske, has asked every question we are asking here today and reached a clear conclusion that no illegal activity occurred, does not prevent this process from being much like the Energizer Bunny of congressional hearings. We keep going and going and going and going without any regard for whether we disclose any new facts, only with regard for how many political points we can score.

Again, as I did on Tuesday, I believe that the idea of the special counsel is absolutely critical to our discussion today. Let us remember that we have a Republican special counsel with an efficient, professional, thorough staff of trained prosecutors, with an unlimited budget at his disposal, with wide-ranging subpoena power, with a grand jury at his disposal, with absolutely no restrictions on their scope of inquiry who has investigated the charges we are considering today, every charge.

His conclusion? His conclusion was simple. No illegal actions on the part of any person.

On Tuesday, I quoted Mr. McCollum referring to his lack of support for the act reauthorizing the special counsel who is looking into the matter commonly known as Whitewater. I would just like to quote him from the *Congressional Record* from a minority report against the reauthorization of the special counsel. It read and I quote, "this act can too easily be manipulated to become a tool of political retribution." That is from the *Congressional Record.*

Is it about this, quote, unquote, "tool of political retribution" that I would like to ask Mr. Nussbaum about today.

Mr. Nussbaum, have you been asked to testify before the grand jury by Mr. Fiske?

Mr. NUSSBAUM. Yes, sir.

Mr. GUTIERREZ. Have you been questioned by Mr. Fiske or members of Mr. Fiske's staff?

Mr. NUSSBAUM. Yes, sir.

Mr. GUTIERREZ. How would you characterize their inquiry?

Was it thorough? Did you find it to be incomplete or professional?

Mr. NUSSBAUM. To say the least, sir, it was extremely thorough, extremely professional, extremely complete. Mr. Fiske is a very able lawyer and he has a very, very able staff.

Mr. GUTIERREZ. And most importantly, what new areas are we exploring today in this hearing? In other words, what areas that Mr. Fiske might have missed are we learning about today at this hearing?

Mr. NUSSBAUM. Factually, I don't think you are learning about anything that Mr. Fiske might have missed. I don't think Mr. Fiske's people will miss very much. They will miss nothing.

Mr. GUTIERREZ. So to summarize, thus far the result of the inquiry into what even Mr. Leach earlier called today a rather modest scandal by Mr. Fiske, the man called—I just want to reiterate this, the man called by the distinguished Senator from New York, Mr. D'Amato, "a man of unflinching and uncompromising integrity," I think he is the kind of person who will bring out the truth for the American people so there will be no question as to the thoroughness and objectivity of this investigation, he has found no illegal activity, none whatsoever. And I would just like to remind everyone that Mr. D'Amato has been one of the leading critics and researchers and investigators into this Whitewater affair.

In 1989, when Mr. Fiske was nominated by then-President George Bush and his nomination was submitted to the Senate for the number two spot in the Attorney General's office, there were some members of the Republican Party who decided that Mr. Fiske wasn't good enough for that spot, it was Senator D'Amato who led the fight to preserve that nomination and got 19 of his Senate colleagues to come together to support Mr. Fiske, so obviously Mr. D'Amato was consistent in terms of his support for Mr. Fiske both before and after Whitewater.

I think we should consider these facts as we look at the situation because any time a Republican or a Democrat is willing to take on members of his own party and chastise members of his own party—and we know what can happen when you do that. Certainly, I do because I have taken on members of my own party here in this Congress. It must have been quite an incredible man, Mr. Fiske, for Mr. D'Amato to go to those extremes to rebuke almost his other Senate colleagues in wanting to reaffirm the integrity and the value of Mr. Fiske as a special prosecutor. It is not the Democrats who think very highly of Mr. Fiske—although, as Mr. Nussbaum and others have alluded to earlier, some of us do think very highly of him, it is the Republicans who think this.

The CHAIRMAN. The time of the gentleman has expired.

Ms. Pryce.

Ms. PRYCE. Thank you very much, Mr. Chairman. Very briefly, there have been during the course of this morning alone at least

three references from the other side to facts that are not at all correct, and those inaccurate references being that Mr. Fiske found no ethical violations during his investigation. And I greatly appreciate Mr. Nussbaum's assistance a few witnesses back in helping to clear that up, because it is a matter of very distinct importance that we make that distinction, and I want to take this opportunity to make it abundantly clear that Mr. Fiske, the only independent, and I stress the only independent counsel in this proceedings thus far was not charged nor did he make any conclusions regarding ethical violations, and to support this, I would like to read into the record——

Mr. NUSSBAUM. That is correct, Congresswoman, one way or the other, he didn't find there were ethical improprieties and he didn't find it was ethically proper. He just said—that is not a question here. I just want to make this part of the record, that there were no conclusions regarding ethical violations and to support that I will read at the very end of his report, the concluding paragraph against—"In reaching this conclusion, this office is not determining anything other than that the evidence does not justify a criminal prosecution. We express no opinion on the propriety of these meetings or whether anything that occurred at these meetings constitutes a breach of ethical rules or standards."

[The information referred to can be found in the appendix.]

Ms. PRYCE. Now, that has been misstated at least three times this morning, and I think it is very important that we make that distinction, and with that I will yield the balance of my time to Mr. Roth.

Mr. ROTH. Well, I thank the gentlelady for yielding.

Mr. Nussbaum, it is great to have you here with us this morning. It has been a long time.

Mr. NUSSBAUM. Nice to see you, sir.

Mr. ROTH. Mr. Nussbaum, an intelligent man like you must be somewhat embarrassed at times to see the Alphonse and Gaston performance with our Democratic colleagues going back and forth.

Mr. NUSSBAUM. You are performing your job, sir, and I am trying to do my job as best I can.

Mr. ROTH. I appreciate that. I know you have a job to do, and we have a job to do. You know, 20 years ago you had mentioned, you know, at the outset you were on this side of the table, so I think you have a pretty good idea what goes on on both sides. I am sure you remember how difficult it is to really get at the truth of these things.

Those days, one political party ran the Congress and another political party ran the White House so you had more of I think a confrontation. Today, you have everything run by one party, so you can imagine how tough it is on us.

For example, we have 20 people on this side, they have got 31 people on the other side, and they know whoever makes the rules wins the game, and we have got a chairman here who has a strict gavel, so you can see how tough it is for us, you can appreciate that.

Mr. NUSSBAUM. You seem to be handling yourself pretty well, Congressman, you and your colleagues.

Mr. ROTH. I don't know. I don't know if I would have passed the bar exam at Columbia. I am curious, Mr. Nussbaum, you resigned from that office. Could you just tell us why you resigned?

Mr. NUSSBAUM. These contacts created a great deal of controversy. I am sitting here 5 months later testifying about these contacts, laying them out in detail. They created a great deal of controversy.

I came to Washington, Congressman, as I am sure you will appreciate, with one purpose and one purpose only—to best serve the President of the United States in his official capacity as best and as loyally and as ably as I could. It became clear to both of us after a conversation I had with him in view of this massive publicity with respect to these contacts, these terrible charges that were made which were untrue, it became clear to both of us after this happened, after we talked about it together, that I could probably best serve him by returning to private life. Since my only goal was to serve him as best I could, and that became clear to both of us, I did what I thought to be the right thing is to resign as counsel to the President and return to private life. That is why I resigned.

Mr. ROTH. I appreciate your answering that.

When you were the White House counsel, Vincent Foster was your deputy; is that right?

Mr. NUSSBAUM. Yes, sir. No finer human being have I ever met in my whole life.

Mr. ROTH. You know, Mr. Nussbaum, I don't doubt that for a minute, and I am not interested in going into——

Mr. NUSSBAUM. I understand that, sir.

Mr. ROTH. Is it possible that he had documents in his office regarding matters of Madison Guaranty?

The CHAIRMAN. The time of the gentleman has expired, and the gentleman is really out of order. He is outside of the scope of this inquiry.

Mr. ROTH. Well, Mr. Chairman, if we are going to get to the truth of things we have to be able to ask questions. I don't think I am out of the scope. We are here to search for the truth, and Mr. Nussbaum has a job to do and we have got a job to do, and quite frankly, that gavel is not allowing us to do our job.

The CHAIRMAN. Well,——

Mr. ROTH. So I would repeat my question saying is it possible that Mr. Foster had documents in his office regarding Madison Guaranty, Whitewater, or Clinton's role in that?

The CHAIRMAN. The Chair has advised the witnesses that they do not have to respond to questions that are outside the scope of this hearing. The gentleman's question is, inasmuch as I have explained repeatedly that this has to do with observing the integrity of the ongoing, unfinished investigation of that portion of the Washington investigation of Mr. Fiske's report.

Mr. ROTH. Mr. Chairman, you heard before where Mr. Nussbaum says I have got a job to do and I said I have got a job to do. My job is to the American taxpayers. There were $60 million, if I may be permitted, there were $60 million that were lost in Madison Guaranty.

The CHAIRMAN. The gentleman's time has expired.

Mr. ROTH. Mr. Chairman, that is not being fair.

The CHAIRMAN. The gentleman is not unique in being the only one that is charged with discharging his duty.

Mr. ROTH. Mr. Chairman, that is not fair. That gavel is not allowing us to do our job.

The CHAIRMAN. His time has expired, he is out of order, and the Chair must proceed and recognize Mr. Schumer.

Mr. SCHUMER. Thank you, Mr. Chairman.

First, I want to apologize to both Mr. Nussbaum and all of you. I missed the testimony.

We finished the conference on the Crime bill which I am sure makes you, you would be proud if you were still counsel and proud today, but I do want to say from talking to my colleagues as we went to vote and seeing the little snippets I did on the TV screen that, Mr. Nussbaum, your testimony seems to represent the best of New York. You are honest, you are feisty, you are forthright, you are likable, you are erudite, and I am glad you are a New Yorker and I am a New Yorker.

Mr. NUSSBAUM. Thank you.

Mr. SCHUMER. Let me ask you a——

Mr. KING. Will the gentleman yield on that one moment? I always thought Mr. Schumer was the pride of New York.

Mr. SCHUMER. There is plenty of pride. You are in there, too. Plenty of pride in New York, I guess.

Let me just ask a couple of questions. I know it has come up, Mr. Nussbaum, about what do you tell the President, what don't you tell the President. Obviously, you get reams of information, and you have to make a decision.

You can't—you are not just a siphon, you can't just pass everything along to the President. How do you make that decision in terms of what you give to the President and what you don't? And then putting that in context, in the fall where was this investigation on your radar screen?

Mr. NUSSBAUM. As I testified earlier, in the fall Whitewater was not on the radar screen. I said something earlier which I really should explain. I said this was no big deal.

In a way that is true, but on the other hand, I recognize that anytime you hear about a criminal referral in which it is mentioned that the President may be a potential witness, that is something serious, so I think maybe it is an overstatement and I may have made my own overstatement by saying this is no big deal.

It is something to take seriously and you act professionally, but even if it is something you take seriously and you act professionally, that doesn't mean you run into the Oval Office to tell the President about it. It didn't reach that level of seriousness or significance. Again, I believe this was a case in which they were looking into possible, improper campaign contributions. I think all of you probably face those kind of problems from time to time. I didn't think—while I had access to the Oval Office any time I wished, by and large, while the President would see me within reason, you know, anytime I wished to see him, I didn't believe it was necessary particularly to run into his office or to walk into his office or to call him with respect to this matter—I thought this could be handled by the staff, the staff could be in a position to respond to press inquiries.

There was nothing wrong with informing him, and in fact it probably was right to inform him in case he had a press inquiry. Mr. Lindsey apparently ultimately informed him, which was the right thing to do, but it wasn't done in an intense, hectic, crisis mode. It was done in a normal, legal, professional mode, and I didn't believe even I had to do it because, as I said, I believed we could handle basically what had to be done, we the White House counsel's office, together with the White House communications staff.

Mr. SCHUMER. What percentage of the information on anything—I am not just talking on Whitewater—that came across your desk, did you pass on to the President, rough-cut guess?

Mr. NUSSBAUM. A minute percentage.

The President deals with very big issues. To make the understatement of the year, the President is a very busy man. And a good staff member, a good counsel, makes a judgment, calls the shots as to when he wants to walk in to see the President, although this President was very accessible, but on the other hand a minute part of what I learn every day do I talk about with the President.

Mr. SCHUMER. The second issue, it strikes me as somewhat anomalous that now there is criticism that you were seeking or some were seeking information. It seemed to me, as I recall back in that fall, you were being asked to gather information in a rather, not in just a blase way, but where is the information, let's not stonewall, let's make sure the public knows everything. Don't you feel in sort of a funny position that in the fall you might have been criticized for not seeking this kind of information and then disseminating it, and now you are being criticized for seeking it? Do you want to—is that an incorrect——

Mr. NUSSBAUM. I have learned in Washington that you are going to get it both ways. It is a part of—I learned that fairly early, I recognize people have their own agendas and their own objectives. My feeling was you do your job, you do your job in a professional, legal, ethical way, you do your duty as best you can, and you let ultimately the President and history judge the outcome, and I still await that judgment.

Mr. SCHUMER. Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Knollenberg.

Mr. KNOLLENBERG. Mr. Chairman, I am going to spare Mr. Nussbaum any questions. I appreciate the testimony this morning. I particularly look forward to the testimony offered by the panel of 9 or 10 this afternoon, so with that I am going to yield back my time.

Thank you.

The CHAIRMAN. Thank you very much.

Mr. Sanders.

Mr. SANDERS. Thank you, Mr. Chairman.

As the only independent in the Congress, before I ask Mr. Nussbaum a question, I would like to take a moment to place this hearing within a broader context of what is happening in our country and pick up on a point that my friend, Maxine Waters, made a few moments ago.

On Tuesday, acknowledging that there is no evidence of illegal behavior on the part of the White House, acknowledging that what we are looking at, and I believe we are looking at poor judgment, in some cases quite poor judgment, we spent a full day discussing this issue before national television, we are going to do the same today, and my understanding is that we have 3 more days of televised hearings on this issue.

Now, I happen to believe that what we are discussing is important. I think that down the road it is very important to look at future information that we will be obtaining, but I must tell you that I really do have a problem with the priorities of the U.S. Congress and the national media.

We are spending 5 days on these hearings, but there are no televised hearings that I know of as to why the standard of living of the average American worker is in decline and why every single day we are becoming a poorer and poorer Nation. Where is Congress? Where is CNN?

We have no televised hearings as to why the gap between the rich and the poor is growing wider. Everybody knows that. Why the wealthiest 1 percent of our population own more wealth than the bottom 90 percent. No hearings on that.

I haven't seen any televised hearings as to the appropriateness of 28 percent of the U.S. Senate being millionaires and the fact that to run for office, to get a seat in the Congress, to get a seat in the Senate requires huge sums of money, so that ordinary people cannot effectively participate in the political process.

Where are the hearings about the decline of democracy in that area?

Where are the hearings why the entire industrialized world has health care, national health care and we cannot take on the insurance companies?

Where are the hearings on that?

Where are the hearings that tell us how it happens that the United States of America has by far the highest rate of childhood poverty in the industrialized world, more and more billionaires, more and more hungry children?

Mr. Chairman, in November of this year, over 60 percent of the American people are not going to come out and vote, they are not voting for the Democrats, they are not voting for the Republicans, they have given up on the political process. They no longer believe that the Congress or the White House represents their interests, and I think these hearings and the priorities of the Congress are part of that problem. Now, having said that, we are here, there are important issues that must be raised, and I wanted to ask Mr. Nussbaum a question.

On Tuesday, Mr. Nussbaum, when Mr. Cutler was before us, I asked him what he believed was the worst example of poor judgment that took place at the White House, and he testified, as others have pointed out, that it was your statement to Mr. Altman at the February 2 meeting. At this meeting Mr. Altman indicated that he was considering removing himself from any official responsibility for the RTC's Madison Guaranty investigation because he was a friend of Bill Clinton's and wanted to avoid the appearance of bias.

As I understand your testimony, you indicated that you hoped he would not remove himself by asking him to think more carefully about it. I understand that is what you have said. Now, I would like to put this question in perspective for the American people because I asked my questions relating to it.

As I understand it, Mr. Cutler considers this statement was in poor judgment because it creates the appearance that you may have been attempting to influence the RTC investigation of Madison Guaranty, so my question is at this politically charged moment on February 2 when the time bomb of a Whitewater investigation was ticking away, did you consider, did you consider the fact that Mr. Altman was in a position to provide favorable treatment to the Clintons regarding whether civil lawsuits should be filed?

Mr. NUSSBAUM. No. No, that wasn't what I was considering.

I stated this earlier, Congressman, I agree with Mr. Cutler on many things. I agree with Mr. Cutler there was no attempt to interfere with or meddle in this investigation. I agree with Mr. Cutler there were no violations of laws. I agree with Mr. Cutler there were no violations of ethical standards. I agree with Mr. Cutler also as a criticism that too many people in February had too many conversations, which was contrary to the instructions in my own memoranda. I agree with Mr. Cutler and his staff that procedures should be tightened to make sure that those instructions are followed more precisely in the future, but I have one area of disagreement with Mr. Cutler, and I do not minimize it.

Once Mr. Altman raised recusal, should that issue have been discussed, and what should he have been told—at that point we disagree, with all respect to Mr. Cutler. Mr. Cutler says the subject should not have been discussed, and if it was discussed, Mr. Altman should have been told to recuse himself, presumably for overriding political considerations.

Mr. Cutler, as I stated before and I will state again, is a wise and serious person. You have to take his views, as I am sure you do and everybody here does, very seriously. His is a most reasonable position.

I just happen to disagree. I disagree. This is very important to me. I believe that an official has a duty to serve unless legally or ethically required to recuse himself. I believe very strongly, sir, that to permit people to bow out of unpleasant duties for political or personal reasons would have adverse implications for this Presidency and for future administrations. I believe, sir, that my position is also reasonable and correct.

Now, you may ask, as you are suggesting, what about all the adverse publicity this has caused? Doesn't this cost the President politically?

I think, sir, with all due respect, that the response to that kind of attack, to that kind of publicity is to stand tall, to articulate and defend your position with regard to these meetings, and to stand by your position. That is what I have always believed.

Mr. SANDERS. Mr. Nussbaum.

Mr. NUSSBAUM. Let me finish, sir. I recognize, sir, that I may be politically naive. I recognize, sir, that some people disagree with this in good faith. I recognize, sir, that the reason——

Mr. SANDERS. I do want to interrupt you——

The CHAIRMAN. The time of the gentleman has expired.

Mr. SANDERS. Bottom line is, he called——

The CHAIRMAN. The time of the gentleman has expired.

Mr. NUSSBAUM. I am sorry, sir, I took so much of your time, but I did want to say what I had to say.

The CHAIRMAN. Mr. Lazio.

Mr. LAZIO. I am going to yield back to the Chair, Mr. Chairman.

The CHAIRMAN. You yield back your time?

Mr. LAZIO. Yes, I will.

The CHAIRMAN. Thank you, sir. Thank you very much.

I appreciate that, but don't get me started.

Mr. Klein.

Mr. KLEIN. Yes. Mr. Nussbaum, I must say that I am impressed with your forthrightness and your candor, but notwithstanding that, I do have a serious question about the judgment regarding the disqualification, stepping aside, recusal, whatever you want to call it of Mr. Altman, and it is not just the impropriety, of course, that is the standard, it is the appearance of impropriety, and given the relationship between Mr. Altman and the President, wouldn't there be an appearance of impropriety?

Mr. NUSSBAUM. That is a very important question, sir. I addressed a portion of it in my statement, but let me answer it like this.

First of all, this so-called longstanding relationship that has been touted between Mr. Altman and the President is, I believe, overstated. Mr. Altman did go to college with the President, I believe, 25 years ago or so. I don't believe Mr. Altman saw the President very much if at all between the time they graduated from college until 1991. That is my understanding, at least.

I don't believe there is a longstanding close personal relationship between the President and Mr. Altman. Now, obviously, they have worked together in this administration. I think they have great respect for each other.

Number two, sir, the ethics rules focus on the kind of relationships that have to exist before people can disqualify themselves. They are called covered relationships.

A friendship, even a longstanding friendship, is not considered a covered relationship, so that doesn't require disqualification. Now, with respect to the appearance of impropriety, the ethics rules deal precisely with that issue, too, sir.

They deal with it. The ethics rules recognize no public official should do anything which causes other people to believe that they engaged in an appearance of impropriety, but the ethics rules state—I am sorry I was lecturing like a professor. You have to forgive me a little bit. But the ethics rules state that appearance must be judged in accordance with what a reasonable person would believe knowing all the facts and circumstances, that is all.

Those include the policy issue. They include the policy issue that I discussed; namely, that a White House official, I believe, or an administration official or a congressional official or a judicial official has to do his duty. So when you consider all the facts and circumstances of that conversation, as well as the other conversations, when you include the purposes of those meetings, precisely what was said, and all the public policy issues, then I believe, sir, with

all respect because you and others may disagree, that a reasonable disinterested objective person, understanding the important policy implications, would not believe that an appearance of impropriety existed. Indeed, that is the same kind of advice Mr. Altman himself received from his own ethics people.

Now, you can say, Congressman, and I respect this, and Mr. Cutler may be saying something like this, that there are overriding governmental or political considerations, and you just shouldn't discuss it, recusal, because of those overriding governmental or political positions. Maybe there are such things. I don't believe that. I believe you have to do your duty. I believe that is how this government should operate. I am sorry I took so much time.

Mr. KLEIN. That is all right. I have just one other question, Mr. Nussbaum, and that is there has been much made of the subject of the briefing on the statute of limitations. In your experience as an attorney, is it not common for government attorneys to have discussions with private attorneys regarding tolling agreements for a statute of limitations?

Mr. NUSSBAUM. The answer to that is yes, sir, and also the answer is that at the beginning of that meeting, that now famous February 2 meeting, Mr. Altman said to us that this is the same kind of information he was providing to Members of Congress who were asking for that kind of information. In any event, sir, there was no information provided in the February 2 meeting relating to statute of limitations or RTC procedures that the White House lawyers did not already know and would not have been obvious to any experienced litigator, so there was nothing remotely wrong with that portion of the meeting.

The recusal issue does raise a sensitive policy issue. I had to make a judgment. I didn't know it was coming up at this meeting. No one told me I was walking into a meeting where somebody said they were going to recuse themself. I had to make a judgment on the spot. I made a judgment on the spot. I made the best judgment I could make on the spot. I decided not to tell Altman not to recuse himself. I decided not to direct Altman to do anything with respect to this. I asked him to carefully consider the issue.

I made the best judgment I could make, and in retrospect, even though I had to make it on the spot, even though I was taken by surprise, I am not sorry I made that judgment. It may have cost me my job in the final analysis, but if I didn't do my duty as I saw it, it would have cost me a lot more.

Thank you, sir.

Mr. KLEIN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Well, the time of the gentleman has expired. Mr. Bachus.

Mr. BACHUS OF ALABAMA. Mr. Chairman, I would say to the membership that we are here to ask questions of the witness and I appreciate your remarks earlier that our purpose is not to swap insults between the membership, and/or to comment on even policies of the different parties. I mean, there has been insults leveled at Republican policies, Democratic policies, and even criticism of past administrations and of Jerry Falwell, and I would simply hope that some of this venom that we may be seeing on both sides, that we leave that out and ask questions of the witnesses. This witness,

in my opinion, I have no further questions of him. I think that he has—not to my satisfaction, but I think he has answered all the questions I would ask.

Mr. NUSSBAUM. Thank you, sir.

The CHAIRMAN. If the gentleman will yield, I appreciate the gentleman's observations, and that has been our intent, and I think you are right. I said earlier that I was hoping that we wouldn't allow the dead hand of the past, even if it was relatively immediate past, to interfere with our ongoing charge under House Resolution 394.

I realize that the overwhelming majority of the House voted for that resolution, and perhaps some of the members of our committee may not have because they felt that it didn't cover the ground, but nevertheless we are subject to that, and I do appreciate the gentleman's observations.

I agree with him, and I think he is correct. I will do the best to uphold those objectives.

Mrs. Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman.

Mr. Nussbaum, do you believe the RTC case was handled any differently than it would have been handled for any American?

Mr. NUSSBAUM. No, I don't believe that. I don't believe it was handled any differently than it would be handled for any American. I do believe that with respect to the criminal referral, we received a notice to enable us to perform our official functions because the President of the United States is mentioned as a possible witness, and it is part of the official function of the White House to respond to those inquiries. But what you are focusing on, I think, Congresswoman, is the investigation, the substance of the investigation, how it was being handled, was it being pursued diligently, was it being pursued to the end. In that crucial respect, which is the most crucial respect, with all due respect, it was handled the same for him, perhaps even more so than for any other citizen of the United States.

Mrs. MALONEY. Was there any evidence that the Madison case, either the civil issues or the criminal referrals, were interfered with, delayed, or compromised in any way by the Clinton administration?

Mr. NUSSBAUM. Absolutely not.

Mrs. MALONEY. Today's *New York Times* has yet another contradiction and another difference of recollections, and it talks about a new memorandum that has surfaced that was kept in a safe. It has just appeared. And it is a memorandum in which Mrs. Hanson is practicing for answers to questions with investigators, and in it she, the question, in one question she writes that she did not tell anyone about the September 29 meeting. This is a contradiction to her prior testimony and really supports testimony of Mr. Bentsen and others that they had no idea of the September 29 meeting. My question to you is if Mrs. Hanson had been instructed to go to the meeting or not, would there have been anything illegal or unethical?

Mr. NUSSBAUM. No, it made no difference whether or not she was instructed. I don't know what instruction she received or did not receive, but to me——

Mrs. MALONEY. But whether she received them or not made no difference?

Mr. NUSSBAUM. It made no difference. The meeting was proper. It was to enable us to perform our official functions regardless of whether she received any instructions.

Mrs. MALONEY. There has been a great deal of discussion today about the recusal issue. I would like to understand what was on Mr. Altman's mind when he came to see you on February 2. Had he made up his mind or was he weighing the issue?

Mr. NUSSBAUM. What I remember—I mean, you have a number of different people at this meeting, and they may have somewhat different recollections in little part. I remember Mr. Altman saying he was seriously considering or he was inclined to recuse himself, he had received ethics advice that it was not legally or ethically necessary, but Secretary Bentsen thought it best, and Jean Hanson thought it best and he was seriously considering or leaning in that direction. What I heard was that he had not finally made up his mind, so when I told him to carefully consider the issue, he said he would carefully consider the issue, and he would do so.

Mrs. MALONEY. The Steiner diary says that you put intense pressure on him not to recuse himself, yet your testimony today and press accounts and other accounts have said that you did not. Which is the truth?

Mr. NUSSBAUM. Well, Mr. Steiner wasn't present at the meeting. I was present at the meeting, Mr. Altman was present at the meeting. You will have to ask Mr. Altman his memory. I don't believe Mr. Altman would say I put intense pressure. When I want to put intense pressure on somebody, I am capable of putting intense pressure on somebody. I am not normally accused of indirection. That hasn't been a charge that has been made of me too often.

What I said to Mr. Altman was carefully said and very precise. It was, if you have to, recuse yourself if you are legally or ethically obligated, do so; if not please consider seriously whether or not it is an appropriate thing to do. In any event, Roger—I do know Mr. Altman—in any event, Roger, it is up to you to decide what you want to do. That is not intense pressure. I left it to him after raising what I believe in my mind to be a serious policy issue which was especially serious because of the Tigert nomination, which was being dealt with just at that time. That is what I said. It was not intense pressure, it was just to raise the issue in his mind so he could consider.

I said, Congresswoman, basically the same thing that Congressman Leach wrote to him, as it turns out, the next day, February 3, 1994. Congressman Leach wrote to Roger Altman, "Accordingly, I would urge that you request from the Department of the Treasury's general counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty." Congressman Leach was telling him basically, in my view, to do exactly the same thing as I was in effect telling him when I said to consider the matter.

When I say to him "consider the matter," he is not going to go into the room and just consider it himself, he is going to go off and

talk again to ethics people. I was asking him to do what I thought Congressman Leach was asking him to do the next day.

Congressman Leach also said something else in that letter. He said, "As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President," referring to the Silverado Neil Bush matter.

You recognize, Congresswoman, just as I recognize, that even though somebody is appointed by a President of the United States, just as that official was appointed by President Bush, does not mean that that individual cannot do his duty, does not mean that that individual is not obligated to do his duty. So I think when I saw Congressman Leach's letter the next day, I thought for once, not always, we were sharing the same views and in the same position.

Thank you, Mrs. Maloney.

Mrs. MALONEY. Mr. Chairman, after Mr. Nussbaum's testimony and the testimony yesterday of Mr. Cutler and the independent prosecutor's testimony, Mr. Fiske, I believe we should—all of which found that it was not illegal, not unethical—I think we should start calling this wastewater as opposed to Whitewater, and I just want to go on record sharing the sentiments of Ms. Waters and Mr. Sanders.

The CHAIRMAN. The time of the gentlelady has expired.

I believe that Mr. Thomas has returned and seeks recognition.

Mr. Thomas.

Mr. THOMAS. Thank you very much, Mr. Chairman.

I suspect that perhaps we have gone through this enough. I would just observe that it takes a pretty great leap of faith to say that this was handled for the President the way it would be for a citizen of mine in Casper, and so the scope of this hearing has been so narrow that I think we ought to move on to others. We have heard two very able gentlemen during the last 2 days, both of whose job it is to defend the White House, so I am surprised the lady is surprised that there hasn't been anything but defense. That is what they are paid to do.

I appreciate it, and I thank you very much, and I yield the remainder of my time.

Mrs. MALONEY. Point of personal privilege, Mr. Chairman.

Since you have raised my name, I must point out that the independent counsel, the Republican independent counsel that was appointed by Janet Reno is an independent counsel and a Republican, and he ruled that he could not find anything illegal in this particular case.

Mr. THOMAS. Of course, the lady understands he was looking for criminal activities. He was not in the ethics, and that is what these gentlemen have been talking about.

The CHAIRMAN. The process must continue, and we now recognize Mr. Rush.

I am sorry, Mr. Deutsch.

Mr. DEUTSCH. Thank you, Mr. Chairman. Mr. Nussbaum, Mr. Cutler testified on Tuesday that Jean Hanson, general counsel of the Treasury, talked with you last September 29 after a meeting on another subject and raised the issue of an RTC criminal referral

involving Madison Guaranty. Mr. Cutler testified that Ms. Hanson told you the referral incidentally mentioned the Clintons and that she told you about it because she expected press leaks. Did you initiate the September 29, 1993 meeting with Jean Hanson?

Mr. NUSSBAUM. I did not initiate the September 29 meeting, I did not initiate the October 4 meeting, I did not initiate the February 2 meeting, all of which are the subject here.

Mr. DEUTSCH. Did you initiate the discussion about Madison Guaranty?

Mr. NUSSBAUM. No, sir.

Mr. DEUTSCH. Did you have any advance notice that Ms. Hanson would raise the subject with you?

Mr. NUSSBAUM. No, sir.

Mr. DEUTSCH. Did you think that there was anything improper about her raising the subject with you?

Mr. NUSSBAUM. No, sir, because if there was, I would have told her that we shouldn't talk about it.

Mr. DEUTSCH. Were you surprised when Ms. Hanson told you that she believed that information about the referral would leak?

Mr. NUSSBAUM. I had been in Washington then already 9 months, sir, and, no, that didn't surprise me.

Mr. DEUTSCH. Mr. Cutler testified on Tuesday that based on his inquiry he determined, and I am quoting, "No White House official took any action based on the information received about the referrals other than preparing to respond to press inquiries." Did you do anything at all to try to influence the Treasury, the RTC, the Department of Treasury with respect to the referral or any investigation by the Department of Justice?

Mr. NUSSBAUM. No, sir, Mr. Cutler's statement is correct.

Mr. DEUTSCH. With respect to the September 29 meeting and the subsequent meeting on October 14, Mr. Cutler said, and I quote again, "It was obviously important and appropriate for the Treasury to inform the White House about the leaks, and the resulting press queries, so that the White House could prepare itself and brief the Treasury to answer the questions being raised by the President."

He stated further, "In my opinion, those who participated acted in good faith and in compliance with existing ethical standards."

Do you agree with that assessment?

Mr. NUSSBAUM. One hundred percent, sir.

Mr. DEUTSCH. You have testified that there is an important public interest in having the White House in a position to respond promptly and accurately to press inquiries. In your opinion, why is that important?

Mr. NUSSBAUM. Because the President of the United States as the Chief Executive Officer, running the executive branch, has to be able to function, has to be able to answer allegations and charges brought against him by people who are trying to undermine him, who are trying to destroy him, who are trying to prevent the things he was elected to do, to be done. He has to be able to deal with the press in order to do that.

If, in fact, there is information which is leaked, which could be misused or become disinformation, such as, for example, an allegation that the President is a target of a criminal investigation or

anything like that, he has to be in a position to respond, to say that's not true, that's not accurate. If you don't put him in position to do that, you undermine his ability to function as President on behalf of all the people. That's why.

You raise the risks, sir, of undermining the confidence in the President and the Presidency. That's why the White House has to be in a position—and Mr. Cutler and I thankfully agree—has to be in a position to respond to press inquiries. It's true for our White House, it's true for every White House with respect to a subject like this. It's true for Republican Presidents, it's true for Democratic Presidents.

The President is not above the law, but the President is a unique figure in our political system. He's our Chief Executive Officer, the leader of our country, and he deals with the press all the time, and he has to be in a position to be able to do so efficiently, promptly, and accurately.

Mr. DEUTSCH. Thank you, Mr. Nussbaum.

The CHAIRMAN. Thank you.

Oh, Mr. Grams. Oh, Mr. Ridge, were you seeking—Mr. Ridge has returned.

Mr. GRAMS. Mr. Chairman, I have no questions for our witness, but I would like to allocate my time to Mr. Ridge.

Mr. RIDGE. I thank the gentleman for yielding.

Mr. Nussbaum, you've been very patient with all these inquiries and I thank you and I just have a couple more for you as well.

Based upon your wide range of legal experience, you concluded when you first heard about potential press inquiries involving Whitewater, that it wasn't, and necessarily based on the information you received, any big deal, at least at that juncture, because it really wasn't on the national radar, it wasn't a matter of national inquiry. So you made a decision predicated upon years of experience.

Mr. NUSSBAUM. Yes, although I think it's an overstatement to say I didn't think it was any big deal. I know I used those words myself. Everything in the White House, Congressman, is important. Anything that affects the President or could affect the President is important. I don't want to be flip or glib by saying this is meaningless, it's no big deal, or anything like that. This is serious, this is sensitive, but in terms of levels of significance, in terms of our various priorities, at that point it wasn't a significant priority.

All I had been told is the President was named as a potential witness with respect to possible illegal campaign contributions. Anything involving the President is sensitive. But that to me is less sensitive, less significant, than a lot of other things, at least at that time.

Whitewater itself, I should say, the whole Madison Guaranty-Whitewater situation as it exists now, obviously, is a significant and sensitive matter. I believe, as I know all of you know, that the President didn't do anything wrong and the First Lady didn't do anything wrong. I believe that with every fiber of my being. But I recognize now that there's a serious inquiry going on by Mr. Fiske and maybe eventually by others. That clearly is, by on any standard, a big deal or a very significant thing. I think ultimately they will be vindicated, but it certainly is a big deal.

Mr. RIDGE. Well, I wasn't trying to miscategorize your initial judgment and overstate or understate the priority that you had to give to it as the President's special counsel. You had an extremely full plate from day to day dealing with issues from A to Z and elsewhere. So I'm not trying to underestimate that. But you made a legal judgment in that regard based on your experience. But I guess a sense from listening to you, from listening to Attorney Cutler, that there was enormous political sensitivity to the potential impact——

Mr. NUSSBAUM. Well, not——

Mr. RIDGE. Of those kinds of inquiries, because everyone—not everyone, you and Mr. Cutler have both testified that it was the nature of the press inquiry and the need as you have stated to get some information to enable the President to or the White House to be in position to respond in an effective way because you as special counsel didn't want anything to undermine the President, you didn't want anybody to destroy him, you must be able to respond.

So while there was a legal calculation in the scheme of things before you legally, it was not of the highest priority, though admittedly there was some political sensitivity to it within the White House, wasn't there?

Mr. NUSSBAUM. The legal calculation, my judgment, was that we were acting for an official public purpose, that the President has to be able to respond. Obviously, political enemies might make use of misinformation, but nonetheless, that doesn't mean it's any less the official public purpose of the White House to be able to respond.

This wasn't a political decision. This was a legal decision based on my view of what the function of the White House was, what the official legitimate public purpose of the White House was.

Mr. RIDGE. And I certainly am not here to dispute that conclusion, that decision that you made. But given the political sensitivity that all Presidents would have to similar inquiries about this kind of matter, was it reasonable to anticipate from your perspective or other people in the White House, that there might be some people, well-intentioned people in that White House, people who work with the President, who believe in the President, who want to do their best by the President, might make some extracurricular inquiries in order to glean some information elsewhere outside the public domain to assist the President in responding to those inquiries, or was this the White House?

Mr. NUSSBAUM. I don't believe that happened in our White House. I don't believe anybody put this information, this minimum information which was eventually publicly leaked in any event, to any improper use. I believe people acted totally appropriately. They used it, just what it was given to us for, to enable us to respond to press inquiries.

I believe I am dealing in the White House—and you will see people this afternoon—with highly able people, with ethical people. I had great confidence and great respect for the people on my own staff, who were the primary people dealing with this, Cliff Sloan and others. I had great confidence in people not on my staff, in their integrity, in their judgment, such as, I'll give you one example, Bruce Lindsey, who was also involved in this. These are superb people. These are decent people, these are honest people. They

would not make misuse of this information, and I don't believe they did. And you can ask them yourself when they appear before you.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Vento.

Mr. RIDGE. Thank you.

Mr. VENTO. Thank you, Mr. Chairman.

Mr. Nussbaum, just a couple of questions. The question I think came up earlier whether or not the President was given any special treatment in this regard. I think you answered in the negative with regards to the investigation and the other procedures and whatever was in the criminal referral. In other words, there was no special treatment, is that correct, Mr. Nussbaum?

Mr. NUSSBAUM. Absolutely. I believe this President is being investigated in a fashion almost unprecedented in this country. There's no credible evidence with respect to any credible charge, and yet major investigations are proceeding, and will proceed for the next year or two.

Mr. VENTO. The point being, though, that the so-called special treatment in terms of the criminal referral information was not written information supplied to Ms. Hanson or her verbal recitation of that information to others, it was not the actual referral, it was just a detailed oral representation of that.

Were you aware of the fact that there was a policy in the RTC, to refer these matters to Treasury when they were high-profile figures mentioned as witnesses in a criminal investigation or referral? Were you aware of that?

Mr. NUSSBAUM. No, actually, at that time I really wasn't fully aware of the RTC-Treasury policies. What I was aware of, what I did believe was when the information was provided to us, it was totally appropriate for it to be provided.

Mr. VENTO. I understand. Did you yourself or anyone else in the White House request that the RTC in fact follow that policy with regards to high-profile individuals?

Mr. NUSSBAUM. We did not reach out, we did not request the RTC or the Treasury to do so.

Mr. VENTO. To this day, do you know for a fact that the information represented in that criminal referral was accurate or inaccurate, absolutely beyond a doubt?

Mr. NUSSBAUM. No, sir, as I testified, I never saw the referral, I never asked to see the referral, and I probably will never see the referral.

Mr. VENTO. Well, are you aware of anyone in the White House who ever saw the referral?

Mr. NUSSBAUM. I think I would know, and I am aware of no one in the White House who saw that referral or requested to see that referral.

Mr. VENTO. In the case of the Altman meeting in which the statute of limitation subject matter was discussed, you stated that you did not know the request of recusal was going to come up at that meeting; is that correct?

Mr. NUSSBAUM. That is correct, sir.

Mr. VENTO. Furthermore, the issue was raised as to the political importance of this entire recusal type of issue.

Mr. Nussbaum, isn't it a fact that others in the Congress were actually raising these questions, that they actually had made it a predicate of the consideration of Ms. Tigert for her appointment to head the FDIC, that she would have to accept recusal?

Mr. NUSSBAUM. Yes.

Mr. VENTO. That's the impression I have.

Mr. NUSSBAUM. That's correct, sir. Ms. Tigert came back to the inquiring Senators and said, look, if any Madison-Whitewater matter comes before me, I pledge to you I will consult an ethics official and I will follow that ethics official's advice as to whether or not recusal—whether or not to recuse myself.

And they said to her, and this is just at the time of the discussion with Altman on February 2, they said to her, no, that is not good enough. We are going to hold up your nomination, we're going to block your nomination, unless you in advance recuse yourself from any matter just merely because you're a Clinton appointee and you have some knowledge of the Clintons.

Even Congressman Leach, I think, recognized in his letter, which I have already quoted, that that's not appropriate. Even Congressman Leach recognized that a Presidential appointee can act fairly and honestly with respect to a matter touching on the President or his family. So I thought what was being done to the administration, was——

Mr. VENTO. Well, this is extraordinary. Couldn't this impair the ability of a regulator or anyone to carry out their responsibility?

Mr. NUSSBAUM. Right, correct, sir. We thought this was tampering with the adjudicative and investigative process by forcing people who had no legal or ethical obligation to recuse themselves, to recuse themselves. This was undermining the administration, undermining our ability to function, and it is something we should fight back against. That is what was going on on February 1 and February 2 when Mr. Altman all of a sudden told me that even though he had no legal or ethical obligation to recuse himself, he seriously considered recusing.

Mr. VENTO. What did you think of Mr. Roelle's statement that he reported this to the RTC or the Treasury in Washington because he anticipated that there would be leaks, that the system is so faulty, that the RTC is such a sieve, that there is no way to prevent that information from going public? Do you have any view of that, Mr. Nussbaum?

Mr. NUSSBAUM. Well, Mr. Roelle speaks the truth with respect to that. That's exactly what happened. The instant the criminal referral apparently was made, maybe before the instant, the press had already started calling to start asking about it and the danger of misinformation was great. That's why we in the White House had to be prepared to respond fully, completely, and accurately to such press inquiries, to enable the President to function.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VENTO. Thank you, Mr. Chairman, members.

The CHAIRMAN. Mr. Huffington.

Mr. HUFFINGTON. Mr. Nussbaum, I gather that you and Mr. Cutler held the same titles or same positions; is that correct? Or is there some difference?

Mr. NUSSBAUM. I said earlier, Mr. Cutler was my predecessor and successor. He was counsel to President Carter, and now he's special counsel to President Clinton, replacing me after I resigned.

Mr. HUFFINGTON. How does special counsel differ though from your job that you had?

Mr. NUSSBAUM. Well, I think he's really basically performing the same job that I had, but I don't know if he's going—Mr. Cutler, as I said, is a wise man. I don't know if he'll be there as long as I was.

Mr. HUFFINGTON. And when you were there, your job was 100 percent dedicated to that White House and also I presume you were on the Federal payroll, not on the payroll of any other organization?

Mr. NUSSBAUM. My job—I was dedicated to my job. My job was to represent the President of the United States in his official capacity and also obviously to provide legal advice and judgments to the White House staff.

Mr. HUFFINGTON. And your full compensation, your salary was paid by the Federal Government.

Mr. NUSSBAUM. My full compensation, sir, was paid by the Federal Government.

Mr. HUFFINGTON. Can you think back in history of any other counsel that would have not been paid by the Federal Government, that would have received remuneration from some other source outside the Federal Government?

Mr. NUSSBAUM. I don't know what you're referring to, Congressman. I didn't receive any remuneration from any other source outside the Federal Government.

Mr. HUFFINGTON. The reason I ask it, there was a surprise to many of us 2 days ago when we were told by Mr. Cutler that his salary was actually paid by a law firm, not by the Federal Government. We presumed he was working for the U.S. Government.

Mr. NUSSBAUM. I think Mr. Cutler is working for the U.S. Government, but Mr. Cutler is a special government employee. He came in for a limited period of time.

Mr. HUFFINGTON. That's why I asked if there was a difference between your job and his.

Mr. NUSSBAUM. In that sense, there is a difference. I didn't come in for a limited period of time. I came in for an extended period of time. It wasn't as extended as I thought it would be, but it was for a greater period of time than Mr. Cutler.

Mr. HUFFINGTON. Well, the reason I ask is ethics is as much perception as reality, and in this government I think a lot of us would have a real problem if in our own congressional offices or any other office we brought in people from the outside, even for a period of 4 months, and allowed them to be paid either by an oil company or a commercial bank or by a law firm, and——

Mr. NUSSBAUM. Congressman, I understand that Mr. Cutler, I have just been told, Mr. Cutler, is not being compensated by his law firm or anyone else during the period in which he is functioning as special counsel to the President. I have just been told that. I understand that. If I've been told that, I'm sure it's accurate.

Mr. HUFFINGTON. Well, I don't think there would be a problem if he's not being compensated. If is he not being compensated for these responsibilities——

Mr. NUSSBAUM. With respect to perceptions, Congressman, again with all due respect, perceptions are important, appearances are important, but the ethics rules are very good on this. They say, now, wait a minute, anybody can make a charge, anybody can make a claim, anybody can spread misinformation. The issue with respect to appearances is what would a reasonable person think if you had all the pertinent facts and circumstances. That's how you should make a judgment on appearances.

You shouldn't make a judgment on appearances because a newspaper might criticize you or a political opponent might criticize you or misuse it. You shouldn't run away from the duty because of those kind of potential appearances. You only should recuse yourself or step down if a reasonable person with knowledge of all the facts, a reasonable, disinterested, objective person with knowledge of all the facts—if that kind of person would say an appearance of impropriety has been created.

Mr. HUFFINGTON. My concern is one that the working men and women in this country believe that there are special interests in Washington that have undue influence, and if—if a member of the President's staff were on the salary or payroll of a law firm, that would give the perception of an ethical problem for the law firm——

Mr. HINCHEY. Mr. Chairman.

The CHAIRMAN. The gentleman will please suspend.

Mr. HINCHEY. Mr. Chairman.

The CHAIRMAN. The member, I don't think, was here the day before yesterday, when Mr. Cutler explained in full detail his specific relationship insofar as compensation or emolument of the office is concerned. And I think the record will answer the gentleman's questions, and I think that the gentleman, in pursuing this, with this witness, is—it's improper and it's out of order.

Mr. HINCHEY. Mr. Chairman.

The CHAIRMAN. Mr. Hinchey, for what purpose do you seek recognition?

Mr. HINCHEY. Mr. Chairman, on a point of order.

The CHAIRMAN. State your point of order.

Mr. HINCHEY. The point of order, Mr. Chairman, is that Mr. Huffington misstated the facts on several occasions in his questioning just a few moments ago. And I think the record will show very clearly that Mr. Cutler when he was here stated that while he was in the employ of the President as his counsel, he was not compensated either by the Federal Government or by his law firm. He was on a leave from his law firm and received no compensation from his law firm. And I think that the record ought to reflect that.

The CHAIRMAN. I think that the Chair has already ruled that this particular line of questioning with respect to this witness is out of order. And that the best source for the accurate description of Mr. Cutler's position was stated in the record of this committee yesterday very clearly, I thought, and I think the answer is there. But the gentleman's interpretation, again, can best be affirmed by a——

Mr. FRANK. Mr. Chairman.

The CHAIRMAN. Review of the transcript.

Mr. FRANK. Mr. Chairman, I just think in fairness to Mr. Cutler, it ought to be very clear that what Mr. Hinchey said was the case. And I would have thought Mr. Huffington would have understood. Mr. Cutler said he was doing it with his own money.

The CHAIRMAN. Well, the gentleman is not recognized at this point. The time of the gentleman has expired. The time of the gentleman had expired before we went into this.

Mr. Rush.

Mr. RUSH. Thank you, Mr. Chairman.

Mr. Chairman, I would like to echo my colleague's amazement at the repetitive and wasteful nature of today's Wastewater hearings, to borrow a phrase from my colleague, Representative Maloney. In the 6 remaining weeks of this session of Congress, my colleagues and I have numerous critical national issues to work on and to complete legislative deliberations on. For instance, the Crime bill, health care reform, welfare reform, and many others come to mind.

Congress is trying to lead the Nation forward, just as the Clinton administration is trying to do. And yet here we sit today, distracted from the real issues of the day, hearing the same tired issues repeated again and again in this public charade.

And, Mr. Chairman, I've got just a couple of questions for the witness, and I'm going to be as brief as possible.

Mr. Nussbaum, Mr. Leach stated that, and I quote, Whitewater evidences the shortcomings of public leadership in America today, end of quote.

I'd like to speak about leadership. I think that the President and the White House staff have not received adequate credit for his leadership, particularly in this matter, and that he, the First Lady, and the White House staff, should be commended for all their cooperation. And I want to get your opinion on whether or not the President has taken a leadership position in getting to the bottom of the so-called Whitewater matter.

My first question to you—and if you would be as brief as possible I would appreciate it—is the President or the First Lady trying to hide anything?

Mr. NUSSBAUM. Absolutely not.

Mr. RUSH. Are you trying to hide anything?

Mr. NUSSBAUM. Just the fact that I'm getting a little tired. The answer is no, I'm not trying to hide anything. In fact, I thank the chairman and Mr. Leach for the opportunity to appear before this committee and to lay out in detail exactly what happened in the last 6 months or so, the September, October, November, December, January, February 1993 and 1994. I'm not trying to hide anything, sir.

Mr. RUSH. Do you know of any members of the White House staff who are trying to hide anything?

Mr. NUSSBAUM. No, sir, they're not trying to hide anything. You'll question them yourself, but they're not trying to hide anything. I believe this White House, under the President's leadership, when I was counsel and now with Mr. Cutler as counsel, has been more cooperative with investigators and investigations than any other administration that I know of.

Now, there are people in this room, Chairman Gonzalez and others, who have been here a lot longer than I have, they know a lot more than I do. But from what I know, this administration has been enormously cooperative with every investigation, congressional, special counsel, Department of Justice, inspector general's, than any other administration I know. We have turned ourselves inside out to respond.

Mr. RUSH. Did the President ask for an independent counsel to investigate all matters related to Whitewater?

Mr. NUSSBAUM. He did, sir.

Mr. RUSH. Has the President completely and fully cooperated with independent counsel Fiske?

Mr. NUSSBAUM. To my knowledge, sir, he's cooperated fully and in every respect. That was his message, that's always been his message. And it continues to be his message.

Mr. RUSH. Have you and all members of the White House staff fully cooperated with independent counsel?

Mr. NUSSBAUM. We have because we wanted to and also because we followed the President's orders in that regard.

Mr. RUSH. Did the President or the First Lady try to limit the scope of the independent counsel?

Mr. NUSSBAUM. The answer to that is no. To my knowledge, there was no attempt at any time to limit the scope of the independent counsel's investigation. He can investigate whatever he believes appropriate to investigate and use whatever resources, I gather, he thinks is necessary to conduct that investigation.

I think all this is fairly unprecedented, but historians will ultimately have their say.

Mr. RUSH. Has the President or any member of his staff tried to influence in any way the independent counsel's investigation or any of the various ethics review of this particular matter, these contacts?

Mr. NUSSBAUM. No, sir. No one would ever dream of doing so.

Mr. RUSH. Mr. Nussbaum, is there anything that the President hasn't done to get to the bottom of this particular issue?

Mr. NUSSBAUM. Not that I know of, sir.

Mr. RUSH. Thank you.

I want to just say, Mr. Chairman, in conclusion, I think that Mr. Nussbaum has been very open with the members of this committee, and, frankly, in my own limited opinion, I think that the Republic has been ill-served because he is no longer with the Federal Government.

Mr. NUSSBAUM. I thank you, sir.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Castle.

Mr. CASTLE. Thank you very much, Mr. Chairman.

Mr. Nussbaum, it has been a long day. Like many before me and probably you, I'm struck by the narrowness of what we're dealing with here, contacts between the White House, Treasury, RTC, and virtually nothing else. You have opined, as you certainly have the background to do, on the questions of legality and ethics and even unseemly practices, even talked about perception to some degree.

As I understand it—I hope I am saying this correctly—Mr. Fiske is continuing what is an investigation, I guess a criminal investiga-

tion potentially, of the underlying subject of this entire hearing today, if you will. That is the subject of Whitewater, Whitewater the investment. And I've read, and again I don't know a lot, I've just read documents and read news media, but we hear questions about the investment itself, about campaign contributions, about Madison Guaranty, which is one of the areas or one of the areas in which money came to go into the Whitewater investment, going into RTC proceedings and money being put in by the taxpayers of the United States in order to keep it going.

My question to you is, when that is all said and done, in your opinion, as one who has been close to this, do you feel that, regardless of whether it comes out with a criminal indictment or whatever may happen—and I have no idea what is going to happen, I don't mean to suggest it—but when that is all said and done, do you feel that this committee, or do you agree with me that this committee should resume jurisdiction and look at those issues, and would you apply the intense pressure that you talked about earlier that you were so capable of applying to the White House and this committee to make sure that is done? Because, to me, that is the real broad question the public really has. Where does that all lead?

Mr. NUSSBAUM. I had enough problem in the White House making decisions. I am not going to presume to advise—this committee is well able to decide itself, sir, what are the appropriate steps it should take when all these investigations are done. You know your jurisdiction and you know your duty better than I do, and I'm sure you will exercise your duty as you think it proper to do so.

Mr. CASTLE. One other question, different subject. I don't know exactly what the terms of your leaving the White House were. You did refer to as being a little abrupter than you thought it would be.

Mr. NUSSBAUM. It was faster than I thought it would be.

Mr. CASTLE. Whatever your reason for resigning, whatever, but can you tell us the nature of that as it relates to this? Were there any problems with respect to the contacts or with Whitewater that were discussed with the President? Why—you don't have to tell us anything that doesn't relate to this, but why did you resign from the White House, if that is the correct expression of what happened, and if it related to Whitewater?

Mr. NUSSBAUM. Congressman, I said earlier, I don't know if you were here, but I came to Washington for one reason, with one goal, with a single agenda: To best help serve the President of the United States.

When these contacts were disclosed and the media made such a tremendous—there was a tremendous uproar about these contacts, totally proper contacts in my view, a tremendous controversy ensued. The President and I did talk and we both concluded after a conversation that I could best serve him, which is all I ever wanted to do in the first place—I had no other agenda other than to serve him in his official capacity—that I could best serve him by returning to private life, and that is what I determined to do, to return to private life. That is exactly what happened with respect to my resignation.

Mr. CASTLE. Thank you, Mr. Nussbaum.

I yield time to Spencer Bachus of Alabama.

Mr. BACHUS OF ALABAMA. Mr. Nussbaum, you mentioned the 130 days that Mr. Cutler was serving under. Is that as a special government employee?

Mr. NUSSBAUM. That's correct, sir.

Mr. BACHUS OF ALABAMA. And that's by statute?

Mr. NUSSBAUM. Yes, that's by statute, regulations deal with that.

Mr. BACHUS OF ALABAMA. And I am—I had mentioned that statute to him when he testified the other day, that he can be appointed, designated, or retained or employed on either a full-time or a temporary or intermittent basis, with or without compensation for a period not to exceed 130 days during any consecutive 365-day period. And I think that's—that's an ethical rule in itself, is it not?

Mr. NUSSBAUM. Well, it's a provision of law which governs the employment of special government employees. It's not uncommon to have special government employees who come in for certain periods of time to deal with special issues.

Mr. Cutler came in in a very difficult time to deal with a very difficult issue. He's a man of great experience, great integrity. He is doing it, as Congressman Frank said, out of his own money, and he is really doing, I believe, a fine job.

Mr. BACHUS OF ALABAMA. And I clarified 2 days ago or tried to attempt to, and today, that this is by statute.

Mr. NUSSBAUM. I understand, sir.

Mr. BACHUS OF ALABAMA. And he was appointed under the statute. And it is Code of Federal Regulation 2635.

Mr. NUSSBAUM. I understand, sir.

Mr. BACHUS OF ALABAMA. Thank you.

Mr. CASTLE. I yield back the balance of my time.

The CHAIRMAN. The time of the gentleman has expired.

Ms. Roybal-Allard.

Ms. ROYBAL-ALLARD. Thank you, Mr. Chairman.

Mr. Nussbaum, Mr. Leach has stated that Whitewater evidences the shortcomings of public leadership in America today. After sitting through hours and hours and hours of testimony, I believe that these hearings have in fact proved just the opposite, that in fact the President has demonstrated unprecedented leadership and cooperation, and the White House staff has been fully cooperative.

Yet, we continue to hear from the other side of the aisle that they are not getting the information they need from the White House, documents aren't being made available, staff is not available. Perhaps they are confused with another hearing that this committee had under a previous administration, when in fact the White House did refuse to provide documents, make staff available, or make interviews available.

Most of the questions that I had prepared to ask you have, of course, already been covered, and they have been covered by my colleague, Congressman Rush, and being that I am following him, I will not repeat those questions. But I would like to make the point that instead of condemning this President, that in fact this President should be commended for his unprecedented leadership and cooperation in this investigation, which has shown that there has been no violation of law, no violation of ethics, no crime, and no coverup.

I yield back the balance of my time.

The CHAIRMAN. The gentlelady yields back the balance of her time.

And, Mr. King, I believe you're next.

Mr. KING. Thank you, Mr. Chairman.

Mr. Nussbaum, I believe I am the last one on this side. I just want to take a brief moment, if I could just do a bit of constituent service, and respond to my friend, Mr. Gutierrez from Illinois, who for the second day in a row has made such glowing comments about my constituent, Mr. D'Amato. I know Mr. D'Amato is gratified by this and I want to again commend Mr. Gutierrez for his relying on Mr. D'Amato as the expert on character and judgment when it comes to people in Whitewater.

And, Mr. Gutierrez, I wish he were here so I could give him the compliment in person, but I know it means a lot to D'Amato. But very seriously, I think the implication that Mr. Gutierrez is saying is that somehow Senator D'Amato has been inconsistent regarding Mr. Fiske. My understanding is that whether it was 1989 or 1994, Senator D'Amato has consistently supported Mr. Fiske. I think the record should show that. Also in the interests of openness and full disclosure, and bipartisanship, to show my friends on the other side they're not at all as bad everywhere, I should disclose that Mr. Nussbaum and I have attended fundraisers for New York Democrats where Mr. Nussbaum was there. And as far as I know, both of us conducted ourselves appropriately at those meetings, in case this ever comes out later on.

So there is a certain amount of bipartisanship, even though some people on the other side don't realize that.

But very seriously, Mr. Nussbaum, again, I obviously don't agree with everything that's done in the Clinton White House, but I do want to commend you for being here today, commend you for your perseverance and patience, and for enduring all that you have endured. And with that, I will yield back the balance of my time to Mr. Ridge of Pennsylvania.

Mr. RIDGE. Thank you, thank my colleague.

And, Mr. Nussbaum, if the American public have learned that anything remains to be seen, what they have learned from the process, they would see that when we try to conduct serious inquiries and yet are limited to 5 minutes on each side and we flip back and forth, it is really difficult to sustain a line of questioning, we really can't find any real probative value in the inquiries.

I would like to try to close the loop on a line of questioning you and I had been engaged in. Because I appreciate, I think I would appreciate the sensitivity of someone in your position, with your responsibility, working and representing the White House, not the President personally, but the White House, and the Office of the Presidency, to the potential public interest that might be generated with press inquiries about the inclusion of the first family, once, twice, whatever, on certain criminal referrals involving something they did in their private life a long time ago. It is your responsibility to be sensitive to what the public, what the press might do to something like that, it is a supercharged political world in this town, and you've got to be, as you well know, probably better than most.

Mr. NUSSBAUM. That's—yes, sir, that's correct.

Mr. RIDGE. All right. And so what I am wondering, then, in your capacity as counsel to the White House, if you felt professionally that it was important for you or the people in the White House staff to determine the accuracy of any of these allegations to assist you in preparing a response to what you saw coming down the road as potential inquiries.

Mr. NUSSBAUM. We believed it would be necessary to acquire in an appropriate manner whatever information that we thought appropriate in order to be able to assist us in response to news inquiries. That's one of the reasons I went to Lindsey. There are people in the White House who are from Arkansas, who have been with the President in prior campaigns, prior gubernatorial campaigns. These are the people who normally know the facts. These are the people who are normally then put forward to convey the facts, the true facts, not the misinformation that political opponents or some in the press might try to throw at the President.

That is the reason I acted as I did. I received this limited information. I and my staff went to the person in the White House, Mr. Lindsey, who was most appropriate, who would likely know most about it so he could respond to the press. And, you know, you also have to remember, I know you understand this, Congressman, there were no allegations here of improper conduct by the President. There are just none.

He was a potential witness and his name was in a criminal referral. There would be press inquiries, it's going to concern four checks, which I heard, that was the October 14 meeting. Sure enough, Mr. Gerth was asking about four checks. What do we know about those checks—let's just tell the press what we know.

There was no fear in the White House that we had done anything wrong or the President had done anything wrong or anybody else had done anything wrong. There was an allegation against somebody else that was being investigated. We're potential witnesses. Just let's get out the facts to the press, as the press will call us. The press always calls us.

Mr. RIDGE. I appreciate that again.

I see that time has already expired, so thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Ridge.

Oh, Mr. Mfume has returned and seeks recognition.

Mr. MFUME. Well, thank you, Mr. Chairman.

I don't have any real questions. I don't want to repeat what I went into the other day about my beliefs that this is a very inconclusive, nonproductive set of hearings. I think it has been stated over and over and over again, and I think when we look back on this, history will prove that to be true.

I do want to say something, if I might, about today's witness, Mr. Nussbaum, who I think is a man of honor and high integrity, whose character, in my opinion, is beyond reproach, and despite the back and forth, up and down, in and out, repetitive nature of these hearings, he's maintained his sense of dignity, as well as his sense of humor. And I think that's important to state.

We bring people before this committee and other committees and doing what we claim is in the best interests of the public, we go through our little exercises. Oftentimes we don't take a moment to

express our pleasure at not only the willingness but the frankness of the people who come before us, and I wanted to say that.

Now, Mr. Chairman, Mr. Nussbaum and I do have one basic difference of opinion, and I hope that it is reported clearly and accurately for the record. Unfortunately, Mr. Nussbaum believes that the Yankees will win the division, and I happen to think the Orioles will win the division, but I will not hold that against him.

I thank you for your time today.

Mr. Chairman, I would yield back any time that I have.

Mr. NUSSBAUM. I changed my view, Congressman. I went back to New York. Actually, when I was down here, I sort of agreed with you.

The CHAIRMAN. Thank you very much.

Mrs. Roukema, did you seek recognition?

Mrs. ROUKEMA. Mr. Chairman, I'll reserve my time. I need no time at this moment, but I'd like to reserve my time.

The CHAIRMAN. Mr. Barrett.

Mr. BARRETT. Thank you, Mr. Chairman.

Mr. Nussbaum, thank you very much. I never had the opportunity to meet you before today, and I think you have done an excellent job in presenting yourself to the committee.

One of the things that you mentioned in your initial testimony was that you had received, unbeknownst to you, a fax prior to September 29. And one of the attempted moments of high drama in today's hearing, that fax was waved about and you were asked whether in fact had you seen it. Just to clarify for me, in your opening statement when you were talking about this fax and then you were shown this fax, we were talking about the exact same thing?

Mr. NUSSBAUM. Absolutely, I mentioned it in my opening statement.

Mr. BARRETT. And I wanted to make sure that was clear, because certainly I think it appeared and maybe to some people watching this it appeared that this was something you had never seen before and that this was shown to you.

Mr. NUSSBAUM. Oh, no, no.

Mr. BARRETT. And I think you made it very clear.

Mr. NUSSBAUM. This is the same fax I mentioned in my opening statement.

Mr. BARRETT. OK.

The CHAIRMAN. Will the gentleman yield to me?

Because the staff has properly pointed out to me, under the rules, Mrs. Roukema, we are not allowed to reserve our 5 minutes. We either exercise them or we don't. And however, if after a while you feel that—I will make this exception because I realize that you were occupied at another proceeding and came in late. I was just offering you at that time an opportunity, if you wanted the 5 minutes. But if you do not, I can't reserve it, and my intention would be to offer that in order not to deprive you of that opportunity, after Mr. Barrett has completed his testimony.

Mrs. ROUKEMA. Mr. Chairman, I wanted to note, however, that there are, by count, what, one, two, three—maybe as many as six or seven left on your side, and I thought that it would be only reasonable under the rules to, since I was not in order at the time—

was not here when the ordered time was advanced, that it would be considered fair and evenhanded if I were to reserve my time until the end.

The CHAIRMAN. Well, I just wanted to make sure that we understood the rules.

Mrs. ROUKEMA. Is that not possible even——

The CHAIRMAN. No.

Mrs. ROUKEMA. With the imbalance here?

The CHAIRMAN. Well, the imbalance, now that's something we can't help. That's what the people have done. The people have expressed who is and who is not a majority in the Congress. But every one of the 51 members of this committee under the rule must be given an opportunity for 5 minutes to direct questions of the witness. And, therefore, we must proceed to recognize every single member of the 51. Whether there is more left on one side or the other, yet to be given that opportunity, is not the question.

I did want to make it plain that I don't want to be a sort of an absolute—I want to be flexible, I want to be fair, but I did want to advise the gentlelady so that a precedent wouldn't be established down the line. You know what I mean.

Mrs. ROUKEMA. All right. Mr. Chairman, I did not realize that that was an ironclad rule of this particular hearing, since it is an exceptional circumstance here. And I was hoping that there would be an allowance made.

The CHAIRMAN. I understand. I myself had forgotten. I believe that we have subtracted this time from Mr. Barrett's time. Mr. Barrett, you may resume.

Mr. BARRETT. Thank you, Mr. Chairman.

Going back to the September 29 meeting, you indicated that Ms. Hanson brought to your attention at that hearing the RTC criminal referrals, and you seemed to indicate also that that was done so that you would be able to respond to press inquiries.

Mr. NUSSBAUM. She said they would leak, and you're going to be asked questions by the press.

Mr. BARRETT. And can you tell us what happened? Did they leak?

Mr. NUSSBAUM. This whole meeting took 3 to 5 minutes.

Mr. BARRETT. No, no, ultimately they were leaked, is my understanding.

Mr. NUSSBAUM. Oh, yes, I'm sorry, I didn't understand your question. They were leaked, virtually simultaneously, with the time the referrals were made. Questions started coming in from the press and we began responding to the press as we should do.

Mr. BARRETT. These leaks, in your—maybe you don't know this. Did those leaks come from RTC, or where did those leaks come from?

Mr. NUSSBAUM. I don't know where the leaks came from. I was concerned they were coming from RTC, but I don't know where they came from.

Mr. BARRETT. I would assume you would agree they maybe came from someone who didn't like the President of the United States and wanted to use that for political fodder, to fire attacks at him.

Mr. NUSSBAUM. I would make the same assumption, sir.

Mr. BARRETT. Just so you know where I'm coming from, my recollection that your judgment that it's important to be able to respond to political attacks is appropriate, because I think you probably have people who are on the government payroll, people from the Republican Party, legislators, who are going to be making attacks, and that it's only fair game that they would be able to respond.

So I want you to know that there is at least one person here who agrees it's appropriate to respond to political attacks. Because that's the nature of what's going on in this town. And I think it's—we have to have that out.

In terms of the criminal referral, why don't you bring us up to date as to what happened to the criminal referral?

Mr. NUSSBAUM. The criminal referrals have now all been referred, I believe, at this point to Mr. Fiske, who is now going to pursue whatever referral still exists with respect to this matter, pursue it vigorously, professionally, and in an independent fashion.

So the investigations with respect to those criminal referrals I presume are still going on, because he has a broad jurisdiction with respect to the Madison-Whitewater matter, and he is looking into those things right now with his staff in Little Rock and elsewhere.

Mr. BARRETT. But they have not been made public yet?

Mr. NUSSBAUM. They have not been made public, I have never seen them, nor do I know anybody in the White House who has seen them.

The fact of them has been made public. The fact of them was leaked. Certain information has been leaked. But, as Mr. Cutler said in a poignant remark the other day in his testimony, we in the White House normally knew less about these things than the reporters and the press. And we always knew less about these things, and we're always to some extent, in a proper way, trying to catch up so we can perform our functions.

My function was not a press function. My function was not to respond with respect to these things. But my function was to see that if we obtain information, we obtained it in a proper legal fashion, and other people in the White House acted in an appropriate legal fashion in using that information.

Mr. BARRETT. Very briefly, it seems to me since they have not been made public, since the White House hasn't formally received them, that if you're going to take these arguments to their logical or their illogical extreme, that to this date no one from the White House should be able to spend any time on it, since they haven't been made public.

Mr. NUSSBAUM. Well, somebody may make an argument. We were given a minimum amount of information for an appropriate use. We used that minimal amount of information for an appropriate use. That's the way the government should function and that's the way we did function.

Mr. BARRETT. Thank you very much.

Mr. CHAIRMAN. Ms. Furse.

Ms. FURSE. Thank you, Mr. Chairman.

Mr. Chairman, there is a saying in Africa, which is, "If you're not a good enough hunter to get meat to the table, you have to spend a lot of time gathering vegetables."

Well, we have meat here, and the question it seems to me before this committee is, were there unethical or illegal actions taken in the matter defined by the resolution, which I voted for, and the resolution which I believe is the meat of this committee hearing.

And although all these details are fascinating and we can go on gathering vegetables, I would like to ask you some important questions because the work of this Congress is important to our constituents' health care, welfare reform, the lives of children. These things are important and it is important for us to know the truth in these very important matters before this committee.

It is my understanding that Mr. Fiske has found no illegal actions to date in his report. Is that your understanding?

Mr. NUSSBAUM. With respect to this issue, the Treasury/RTC, White House contacts, it is my understanding, Mr. Fiske has found no criminal conduct with respect to that, no illegal conduct in the criminal sense. He did not opine with respect to its ethical propriety. Others are opining to that. Mr. Cutler has and today I have in this room.

Ms. FURSE. It is also my understanding under our legal system that a person under oath's testimony is presumed to be truthful under oath. We expect that that is so.

Now, Mr. Cutler testified that he had found no illegal or unethical situation in the White House in this matter. Mr. Nussbaum, have you found any illegal or unethical behavior in this matter in the White House?

Mr. NUSSBAUM. The answer is no. I have found that people can disagree over certain judgments, over certain policy issues, and Mr. Cutler and I have an important but narrow disagreement. But I have found, I believe there to be no legal or ethical improprieties by anybody in this White House.

Ms. FURSE. So in your opinion, Mr. Nussbaum, under the matter before us, the result of the resolution in the Congress, you are satisfied that there was no illegal or unethical behavior regarding this matter?

Mr. NUSSBAUM. Yes, Congresswoman, I am so satisfied.

Ms. FURSE. Thank you, Mr. Nussbaum.

Mr. VENTO. Would you yield?

Ms. FURSE. Yes, I yield.

Mr. VENTO. I appreciate your yielding.

I just wanted to point out that there have been a number of statements with regards to the fact that since the hearings of Tuesday and today had not yielded more exciting information that they are not useful. I might say to myself and to my colleagues, I think that they're very useful. I don't think the only hearings that are useful are those in which we find that the Clinton administration is, and someone in it, has in fact been involved in wrongdoing. There are many witnesses to come today, but I think it is a very useful function in the sense that this was raised at the highest level of political importance by many in the Congress and that these questions need to be satisfied. So I think we should treat it accordingly.

I, obviously, have a lot of important work to do. That's one of the reasons I've been late today, and will be leaving again, but I would hope my colleagues would work in that spirit.

I thank the gentlewoman for yielding.

Ms. FURSE. I yield back my time.

The CHAIRMAN. The gentlelady yields back the balance of her time.

Mrs. Roukema, were you——

Mrs. ROUKEMA. No, Mr. Chairman, I yield my time. I yield to Mr. Leach.

The CHAIRMAN. Oh, OK.

Mr. LEACH. Just for one very modest observation, and I take with respect the spirit of what my friend from Minnesota has commented. But I think it would be equally useful if this committee of the Congress were to deal with the 99 percent of Whitewater, which is principally under its jurisdiction, than the 1 percent we're dealing with today. The 1 percent has some very large philosophical implications, but has very little to do with the issue of which this committee has principal jurisdiction, which is the safety and security of the American financial system.

Thank you.

Mr. VENTO. Will the gentleman yield to me?

I wanted him to explain to me how he came to this 1 percent calculation sometime, if he would.

Mr. LEACH. Well, I'd be delighted to.

Mr. VENTO. We have to get out the arithmetic model.

Mr. LEACH. The minority, as you know, has employed great analogical efforts in this area, and all we have made today is the disparangingly——

Mr. ROTH. Would the gentleman yield?

Mr. LEACH. Difficult allegation that the administration might be guilty of Ptolemyism.

Mr. ROTH. Would the gentleman yield?

I think we have to remember that we are not representing the Democrats or the Republicans or the Clinton administration. We're supposed to be representing the American people. And when we have a hearing on Madison Savings and Loan in Arkansas that cost the American taxpayers $60 million and we come to the conclusion that nothing was wrong, then I think we have a chance to pat ourselves on the back. But until that time, you know, we haven't asked the questions the American people have a right to have asked yet.

The CHAIRMAN. The time has expired.

Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

I don't have any question, but I do have a statement that I want to make.

Mr. Chairman, I have a greater respect for you and the integrity which you have always brought to the work of this committee. However, I am saddened by what has been going on here this week. This committee and this Congress have spent so much time and so much energy on these hearings, and yet have got so little to show for it.

Mr. Chairman, I have to wonder what the people are thinking about all of this. Many of them face very serious crises every day of their lives—poverty, unemployment, poor education, inadequate health care—and yet what do they see? A packed committee and

dozens of staff members working overtime to come up with ways to graduate more kids from our schools, to lower alarming infant mortality rates, to give comfort to the thousands of children born into poverty every day of the year in the richest country of the world? No, what they instead see are millions of dollars wasted on political games which have absolutely nothing to do with real life and real problems.

Can any of us wonder why the people are so disillusioned with the political system? We have got the answer right here. Maybe the least we can do is try to get through this political circus as quickly as possible.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

The gentlelady yields back her time.

And we will proceed with—oh, Mr. Wynn, pardon me.

Mr. WYNN. Thank you, Mr. Chairman.

Good afternoon, Mr. Nussbaum.

Mr. NUSSBAUM. Good afternoon, sir.

Mr. WYNN. I want to thank you for your patience, because I'm sure it has been tried, and I also want to thank you for your prior service to our country. It is certainly appreciated.

Let me just ask a few brief questions. I don't think I will ask anything that will be ground-breaking, but certainly, if anything, the American public would like to know that the administration did no wrong and that despite all that they may have heard, there's no real problem.

Let me direct your attention to page 8 of your testimony, in which you state that on February 2, 1994, you received a call from Mr. McLarty's office, asking you to attend a meeting with Treasury Department officials to discuss the statute of limitations process. And I'd like to ask you if you saw anything unusual about this meeting, or the request for this meeting to discuss the expiration of the statute of limitations.

Mr. NUSSBAUM. No, sir, I did not.

Mr. WYNN. OK. Was this meeting required to be cleared by White House counsel?

Mr. NUSSBAUM. I am White House counsel.

Mr. WYNN. So in effect you're saying that you cleared the meeting as being appropriate and within the bounds of ethical conduct.

Mr. NUSSBAUM. Once I heard what the meeting was going to be about, a briefing on the statute of limitations process, similar to that that had been given to Congressmen, I felt the meeting was totally appropriate and I permitted it to proceed.

Mr. WYNN. Was this meeting in any way a violation of White House ethics violations in your opinion?

Mr. NUSSBAUM. No.

Mr. WYNN. OK. What action, if any, did you take in regard to the statute of limitations?

Mr. NUSSBAUM. None. I, personally, took none. What the Congress did, with the support of the President, was to extend the statute of limitations ultimately. So the whole issue about the statute of limitations within 10 days of the meeting became moot, basically. The whole purpose became moot, because the statute has now been extended to the end of 1995, I think.

Mr. WYNN. So the effect of that extension basically was to allow for any prosecutions, investigations that might have had an adverse effect on the President?

Mr. NUSSBAUM. That's correct.

Mr. WYNN. And would it be your position that there was nothing done to block that extension?

Mr. NUSSBAUM. Nothing was done to block that extension. Indeed, the extension was supported by the President and the administration.

Mr. WYNN. I'd like to turn to the retention of Mr. Jay Stephens. Do you have any knowledge of how he came to be hired by the RTC?

Mr. NUSSBAUM. No. I have no knowledge about how he came to be hired by the RTC. I just know he was hired by the RTC, and that caused me great dismay and disbelief. But, as I said, we would not and should not do anything about it, nor did we do anything about it.

As far as I know, Mr. Jay Stephens is still on the job investigating the President of the United States.

Mr. WYNN. And you took no actions to interfere with his work on behalf of the RTC?

Mr. NUSSBAUM. No, sir.

Mr. WYNN. OK. I'd like you to comment just briefly, because I know we have a vote up, with respect to Mr. Altman's recusal. As White House counsel, did you believe he had an obligation to recuse himself?

Mr. NUSSBAUM. No—he told me that he received ethics advice from ethics officials that he had no legal or ethical obligation to recuse himself, and in that circumstance it was my strong view as a matter of principle and policy he had a duty to continue to perform his duties. I didn't say that to him in those words, but that was my view. What I told him was to consider the matter carefully.

Mr. WYNN. Did you suggest to him in any way that there were ethical considerations surrounding whether he ought to recuse himself?

Mr. NUSSBAUM. What I said to him was that he carefully should consider the matter. I think he took that to understand that he should go back again and talk to ethics people, as he did, and he got a written opinion later on, with respect to whether or not he was legally or ethically required to recuse himself. I wanted him to get, as Mr. Leach I think wanted him to get when he wrote him the next day, the best ethics advice he could get with respect to this issue.

Mr. WYNN. OK. But your ethics advice was he had no obligation to recuse himself?

Mr. NUSSBAUM. As far as I understood, he told me he had no obligation—he went back to his people and I had a marvelous person in my office, named Beth Nolan, who I mentioned, was a real expert in this area. When Treasury called me the next day, after they received Congressman Leach's letter, I said, if you wish, why doesn't your ethics person get in touch with our ethics person, Beth Nolan, who is the straightest and one of the most honorable people I've ever met. Deal with this issue. If there is a legal or ethical obligation, if Roger was wrong the night before when he said there was

no legal or ethical obligation, he should step down. But if there is not, then he should carefully consider whether he should step down or whether or not he should do his duty.

Mr. WYNN. In the context of this hearing, is it correct that you have reviewed the conduct of all the officials in the White House who were involved?

Mr. NUSSBAUM. Yes, I think I am familiar and I reviewed to a certain extent the conduct. Mr. Cutler has done a much more intensive job than I did, since I left.

Mr. WYNN. In your professional judgment, has there been any official wrongdoing by staff members of the White House?

Mr. NUSSBAUM. No.

Mr. WYNN. Thank you.

The CHAIRMAN. Mr. Fields.

Mr. FIELDS. Thank you, Mr. Chairman.

And let me also thank you, Mr. Nussbaum, for being here and I appreciate all the service you have given this country. I have just a few questions. I want to just get some clarity. It's probably a better word, better concern that I have on one or two questions.

One, out of the meetings that you attended while you were White House counsel, at any of these meetings did you at any time or any any member of the White House staff apply any pressure to any person in Treasury?

Mr. NUSSBAUM. We did not. We never applied any pressure to any person in Treasury to do anything.

Mr. FIELDS. All right. At the meeting that took place on February 2, my question to you, sir, is, at that meeting there were several parties present.

Mr. NUSSBAUM. Yes, sir.

Mr. FIELDS. At that meeting, did anybody—it was clear that Mr. Altman had some questions as to, in his mind, as to whether or not he should recuse himself.

Mr. NUSSBAUM. That's correct.

Mr. FIELDS. At that meeting, what was your conversation with Mr. Altman?

Mr. NUSSBAUM. Very briefly, number one, if you have a legal or ethical obligation to recuse yourself, do so.

Number two, if you don't have one, and you told me you received ethics advice that you don't have one, then you should carefully consider whether or not you should recuse yourself.

Number three, and I am shortening the conversation, in any event, Roger, the decision is for you and you alone to make, it is up to you to do whatever you believe is appropriate in the final analysis. That was my conversation, in essence, with Roger Altman on February 2, 1994.

Mr. FIELDS. So you basically gave Mr. Altman advice? You did not give him anything other than advice as you saw it, as you see the law?

Mr. NUSSBAUM. I didn't really give him advice. What I gave him was my views as I saw the situation right then. If advice means I told him to recuse himself or not recuse himself, I didn't give him advice in that sense. I just gave him my views.

Mr. FIELDS. You gave him your opinion. Now, let me ask you this: Shortly after the February 2 meeting, there was another

meeting where Mr. Altman called the White House as I appreciated, and he wanted to inform everybody that he was not going to recuse himself; is that correct?

Mr. NUSSBAUM. Well, actually, what I remember is running into him in the hallway a day or two later. In a 30-second conversation he said to me he was thinking about the matter, but he was inclined the other way now, not to recuse himself. His general counsel had called me and said they were still researching the matter, they were still doing legal and ethical research, which was the appropriate thing to do because if the original opinion was not correct, then he should recuse himself.

Mr. FIELDS. So you are not familiar with the second meeting after February 2?

Mr. NUSSBAUM. I am familiar with a second meeting with me, a brief conversation with me. I have heard now that he has also had conversations with others with respect to this thing. I was not familiar with those conversations at that time.

Mr. FIELDS. The reason why I ask the question is because I was wondering whether or not the opinion—he received the opinion after or before or prior to the second meeting?

Mr. NUSSBAUM. He received an opinion, he received ethics advice, I believe, prior to our meeting on February 2. He then went out after our meeting, again consulted with ethics people and received advice subsequent to our meeting, advice that he was not legally or ethically required to recuse himself. That advice in the middle of February was contained in written memoranda to him, as I subsequently learned.

Mr. FIELDS. My final question, sir, do you have the capacity to fire Mr. Altman?

Mr. NUSSBAUM. No, sir, I don't have the capacity to fire Mr. Altman.

Mr. FIELDS. As White House counsel, you did not have that capacity?

Mr. NUSSBAUM. I did not have that capacity to fire Mr. Altman nor really even to direct him to do things.

Mr. FIELDS. Was Mr. Altman under the impression at any given time during your discussion with him that you had the power to fire him or reprimand him?

Mr. NUSSBAUM. I don't believe Mr. Altman believed I had the power to fire him or do anything adverse to him.

Mr. FIELDS. With that said, then it was clear that this was an independent decision he made from no pressure from you or anyone else that you——

Mr. NUSSBAUM. That is correct, sir, that is what I believe.

Mr. FIELDS. I thank the gentleman. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair will state we have about 5 minutes to record our vote, and also that we have a quorum call followed by a 5-minute vote, so we will recess to allow the members to record their votes and urge the remaining members to return as quickly as possible, and if the witness will suffer our legislative processes.

[Recess.]

The CHAIRMAN. The committee will come to order. When we left, we had four on our side beginning with Mr. Watt, and Mr. Watt having arrived is recognized.

Mr. WATT. Thank you, Mr. Chairman.

Mr. Nussbaum, is there anything new you have learned about the facts of this case as a result of this hearing?

Mr. NUSSBAUM. No, Congressman.

Mr. WATT. I haven't, either. I am not sure whether the chairman knows this or not, but I was watching on television for some periods of time that I was out of the room, and the television station that is covering this had a brief technical problem, and they switched over for about 15 seconds to "Mr. Rogers," and I would have to say that in that 15 seconds I got more information than I have gotten out of the entirety of the hearing. I really am not going to insult the American public any further. I think we are wasting time and taxpayer money, and I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back the balance of his time.

I would like to say this: Even though we are operating under a House-passed rule and not one of our agenda, there is a serious purpose, and I believe much good has been done. It has cleared the air in many respects. It has given an opportunity to press those things that have been in question for some time, and I must insist on repeating what I have said before in years past that this is a committee hearing, it is not a TV talk show, and it is very hard to bring this realization about when the expectancy of a committee hearing is to show the drama times of a TV talk show.

It is not a TV talk show. This is a committee hearing, such as has been the case since the First Congress in 1789, and I realize that every one of us, including myself, would have desired a different way of approaching this, but what we are faced with is complying with an overwhelming House decision to pass a resolution, indicating the proposition that we are trying to discharge. In pursuance of that resolution, further perfected and implemented by the bipartisan leadership agreement. I just wanted to say that we must be careful to make sure we don't consider or expect a level of consideration of a TV talk show of a committee hearing.

I believe Mr. Klink. No, Mr. Hinchey, I beg your pardon, Mr. Hinchey.

Mr. HINCHEY. Thank you, Mr. Chairman.

Mr. Nussbaum, it is a pleasure to meet you.

Mr. NUSSBAUM. Nice to meet you.

Mr. HINCHEY. You are a very impressive person, and I mean that in a very favorable way, and it is easy to see why the President of the United States would feel very comfortable in having you as his counsel.

Mr. NUSSBAUM. Thank you.

Mr. HINCHEY. Even a casual observer of the relationship between the executive and the legislative branches in recent history would have to be, I think, impressed with the difference between the way the executive has conducted itself in the present instance as compared to those previous instances which come immediately to mind that generated hearings such as this.

I can recall as a person in private life at that time the assertion of executive privilege repeatedly, the blocking of attempts by the Congress to obtain information and documents over and over and over again in the context of several proceedings within the last—within the relatively recent history.

In this present context, has the executive ever sought to assert executive privilege or to deny access to documents or information in any way?

Mr. NUSSBAUM. No. In an unprecedented fashion, I think.

Mr. HINCHEY. In an unprecedented fashion?

Mr. NUSSBAUM. In an unprecedented fashion, which I must admit to you sometimes gives me some pause. This executive has, I believe, waived more privileges than anybody else has ever done in the past. It has tried to be as open as possible. It has not taken attorney-client privilege.

I have testified today about a conversation with the President in my opening testimony. It has not taken executive privilege. It has taken virtually no privileges to block any of the inquiries that Congress or relevant investigative agencies such as the independent counsel have undertaken. It has been quite open in that respect, and I think in an unprecedented manner, Congressman.

Mr. HINCHEY. Some of the members of this panel have sought to suggest that there may be something less than truthful about the testimony that you have provided by saying things to the effect, well, after all, you were the counsel for the President, you were here to defend him, things of that nature. I have noticed that tone in some of the questions that have been asked and some of the statements that have been made. I would only observe that as far as I know you are no longer in the employ of the executive branch or the Federal Government in any way?

Mr. NUSSBAUM. No, sir. I am now a private citizen, back in the private world.

Mr. HINCHEY. You are a private citizen and you are here testifying under oath?

Mr. NUSSBAUM. I am here testifying under oath and I recognize the implications and the responsibilities of testifying under oath.

Mr. HINCHEY. Let me just ask you a couple of specific questions so that we can specifically get them on the record. We know that in the fall of 1993 the White House was told by the Treasury that the Resolution Trust Corporation had certain criminal referrals that might mention the President of the United States, Mr. Clinton, and Mrs. Clinton or identify them in some way as possible witnesses.

Mr. NUSSBAUM. Correct.

Mr. HINCHEY. Did you or any other White House employee ever suggest that President Clinton or Mrs. Clinton should not be identified as possible witnesses in those referrals?

Mr. NUSSBAUM. Absolutely not.

Mr. HINCHEY. Did you or any other White House employee ever attempt to have either the President's name or Mrs. Clinton's name removed from the referrals?

Mr. NUSSBAUM. No.

Mr. HINCHEY. Did you or any other White House employee take any steps whatsoever to stop those referrals from going forward?

Mr. NUSSBAUM. We did not.

Mr. HINCHEY. Did you or any other White House employee attempt in any other way to interfere with any of these referrals?

Mr. NUSSBAUM. No. As I said earlier, we wouldn't even dream of doing those things. I really mean it. Certainly, I wouldn't dream of doing those things nor to my knowledge did anybody I work with dream of doing those things.

Once an investigation starts, even with respect to the President, it is going to take its course. It is wrong, illegal, to try to interfere or meddle. It is also stupid to try to do that, but more important, it is wrong, it is wrong morally, it is wrong legally, and no one in the White House would ever undertake, to my knowledge, to do such a thing. Certainly, I would not permit it.

Mr. HINCHEY. There is a different responsibility that exists with this committee and the legislative branch of government generally as opposed to the special counsel's office and his responsibility.

Do you think in any way that Mr. Fiske is proceeding improperly by suggesting that this committee ought to defer its investigation of certain aspects of Whitewater until after he has had the opportunity to look at them from the criminal perspective?

Mr. NUSSBAUM. As a former prosecutor, as an assistant U.S. attorney for the Southern District of New York, I fully understand—I believe I understand—what is motivating Mr. Fiske in this regard. He wants to make sure that any criminal case that he can develop, if there is one to develop, is not in any way adversely impacted or interfered with by prior congressional proceedings.

He is trying to protect the ability to bring a criminal case. He is trying to prevent the undermining of a potential criminal case. I don't know if there is any criminal case there. I don't believe there is any criminal case there, but that is not for me to determine, that is for him and his staff to determine, but he is trying to preserve his ability to do. So I fully understand that as a former prosecutor. It is precisely the same kind of thing I would do.

Mr. HINCHEY. Thank you, sir.

Mr. NUSSLE. Mr. Chairman, if I could at this point, it is related to this testimony, I would like to ask unanimous consent that that portion of Mr. Cutler's testimony where he referenced attorney-client privilege be inserted in the record at this point. I believe that there was some assertions by Mr. Cutler that—and it applies to this issue—that in fact some privilege may in fact have already been exercised or may be exercised, and if I could ask unanimous consent to put that in the record at this point, I would.

Mr. NUSSBAUM. The only privilege, Congressman, that I heard Mr. Cutler say, that is why I said virtually no privilege, I believe I said virtually no privilege, is I believe Mr. Cutler referred to what he called the work product privilege, being a lawyer's work product, the processes of his mind, his own notes, his own thoughts. That privilege perhaps the White House is taking. That to me and to any lawyer is totally understandable. But any privilege the President has, any privilege that he has with respect to his documents or his conversations either as a client or as the President, attorney-client or executive privilege, any privilege that he has or his staff would have as a result of working with him, those privileges, as I understand it, have totally been waived.

Mr. HINCHEY. Mr. Chairman, if I may.

The CHAIRMAN. Is there any objection to the unanimous consent request?

Mr. NUSSLE. If I could restate it or just—because I am not disagreeing with the witness at all, I am not disagreeing with his testimony, I am only suggesting just for clarification purposes because Mr. Cutler did testify to that point, I would just ask unanimous consent that it be put in at this point.

The CHAIRMAN. Is there any objection?

Hearing none, it is so ordered.

[The information referred to can be found in the appendix.]

Mr. HINCHEY. Mr. Chairman, there is no objection, but I just want to make it clear that what is being discussed here is not executive privilege or privilege by the White House in any way, it is simply the attorney's privilege of his own work product.

The CHAIRMAN. Yes, and I think setting forth Mr. Cutler's own statement as of yesterday, and showing it up today, I see no objection to that, obviously nobody else does, so I appreciate the gentleman's request—Mr. Klink.

Mr. KLINK. Thank you, Mr. Chairman, and Mr. Nussbaum, thank you again for your patience and for your testimony today. I will just try to be brief, a few questions that I have for you.

I notice on page 10 of your testimony you were talking at the top of the page, Mr. Altman said the RTC investigation was headed by Jack Ryan, the RTC's Chief, Deputy Chief Executive Officer and Ellen Kulka, the RTC's general counsel, and later on you say, "While I never personally met or dealt with Mr. Ryan or Ms. Kulka, I had firsthand experience with the OTS." Did you, in fact, have any knowledge of either Mr. Ryan or Ms. Kulka, and if so, what was the extent of that knowledge?

Mr. NUSSBAUM. No, I had no personal knowledge. I never personally met Mr. Ryan or Ms. Kulka. Ms. Kulka was tangentially involved in this matter that I allude to here. I represented a law firm in New York, called the Kaye Scholer firm, in a fairly difficult litigation by the OTS. All she was involved with was the settlement of that litigation, she helped negotiate the terms. I didn't personally negotiate with her. I didn't meet her. One of my partners dealt with her, so I had no firsthand knowledge of her.

Mr. KLINK. Did you know her by reputation in fact?

Mr. NUSSBAUM. I knew her to be a tough, intelligent, competent litigator.

I have read subsequently, I must say, a letter she has written to Congressman Leach which Mr. Cutler has testified to, the letter she and Mr. Ryan wrote on March 30. This is after I resigned as counsel to the President, which causes me to hold her and Mr. Ryan in some high regard. They wrote a long letter to Congressman Leach about requests for information and various things, but they also noted in that letter, as Mr. Cutler pointed out, that no pressure has been exerted by the Treasury or White House or any other source of the executive branch concerning the performance of our responsibilities with respect to Madison Guaranty or Whitewater since either of them joined the RTC. I know Ms. Kulka by reputation, partly formed in that case, to be a woman of—an

able lawyer, a strong personality, and a person of high intelligence, and, as I said, a tough litigator.

Mr. KLINK. So you had no opinion at that point about the competency of the investigation being headed by those two people?

Mr. NUSSBAUM. I had no opinion about Ms. Kulka's competence or Mr. Ryan's competence.

Mr. KLINK. And knew of no one——

Mr. NUSSBAUM. I had no reason to believe they were not competent, especially after reading this March 30 letter. They are highly competent.

Mr. KANJORSKI. Could I have a point of information? Is that letter part of the record or will it be included in the record?

If not, I ask unanimous consent that it be included at this point in the record.

The CHAIRMAN. Is there any objection?

Hearing none, it is so ordered.

[The information referred to can be found in the appendix.]

Mr. KLINK. So as far as you know, you were confident at that point that this investigation would go forward? You knew of no one who attempted to influence that investigation or those investigators who were handling the case?

Mr. NUSSBAUM. The answer to that is no. I had some—as my statement indicated, my statement says I had experience with the OTS, having represented a large law firm in some difficult and contentious litigation, the Kaye Scholer firm. I had some doubts, I want the committee to understand, about the fairness and professionalism of the OTS in connection with that litigation. What they did there is they seized the assets of a law firm at the outset and prevented the law firm from defending itself. And I have been in the public record, I went around the country talking about the case for a while, before I became counsel to the President.

Mr. KLINK. Excuse me, because my time is running out, what were your concerns based on?

Mr. NUSSBAUM. I had a concern based on my prior experience with the OTS in the Kaye Scholer matter, and I publicly expressed, prior to becoming counsel to the President, that I had concerns about the way they conducted that matter. But with respect to Ms. Kulka, who I did not know and did not personally meet or Mr. Ryan, all I knew that they were tough litigators, or Ms. Kulka certainly, intelligent, and highly competent people.

Mr. KLINK. There were some conversations you had with Webster Hubbell regarding who should be appointed as independent counsel?

Mr. NUSSBAUM. No, that is not an accurate way of putting it, Congressman. I never had conversations with Webster Hubbell who should be appointed independent counsel. Mr. Hubbell was conflicted out of that matter, and I knew——

Mr. KLINK. He had recused himself?

Mr. NUSSBAUM. He recused himself in that matter. He recused himself, I believe, in November 1993. When Ms. Reno was considering on her own who to appoint as independent counsel or special counsel, there would be newspaper stories about who she was considering. Mr. Hubbell and I had become close friends, we knew each other very well, and we would talk from time to time about

many things, and incidentally, and perhaps in one or another of those conversations we would speculate with each other because he was conflicted out, he had nothing to do with it, and the White House wasn't doing anything, wasn't involving itself in it, so we would speculate from time to time about the names being mentioned in the newspapers. That is the only—that is the extent of my very brief conversations with Mr. Hubbell.

Mr. KLINK. Mr. Nussbaum, thank you.

The CHAIRMAN. Thank you, sir. Your time has expired.

Mr. Fingerhut.

Mr. FINGERHUT. Thank you, Mr. Chairman, and thank you, Mr. Nussbaum.

Like you, I have also listened to all those who have come before us. I have three brief comments, and I would invite your comments, time permitting, on points two and three. You will see why one probably doesn't invite your comment.

Point one is that I do have some disagreement with members on both sides about the impact or the import of these hearings. The question being posed here is whether or not the President of the United States or anyone who worked for the President of the United States illegally or unethically interfered with a criminal referral from a regulatory agency. That is a question of supreme national importance, it seems to me, and so for those who have diminished these hearings as covering only 5 percent of the total factual matter involved in all those questions having been raised under the heading of Whitewater, they may be correct, but this, I would submit to you, is the most important piece, and even if there comes to be some truth involved in what happened in Arkansas years ago, it will still be of more important national significance that the President and nobody who worked for him interfered with, obstructed justice. I think that is a critical question. It is also why I disagree with members on my own side who say there is no value here in disproving those allegations. It is of supreme national value if those allegations are disproved, and to that point in these hearings they have been.

Mr. NUSSBAUM. Those allegations are false.

Mr. FINGERHUT. The second point that I would make and invite your comment, I expressed some concern yesterday to Mr. Cutler, and I do to you as well, about this so-called heads-up policy. It strikes me, and I respect the integrity with which you have articulated it and the force of your opinion, but I respectfully would submit that an exception that allows the representatives of regulatory agencies who work for the executive branch to inform the White House of information, to give them heads-up about potential press inquiries, can become an invitation to make such information and become a passageway to the White House, and that there is an alternative.

The alternative is not to give heads-up and for the White House when they are confronted with a query for which they don't know the answer, to simply say I don't know the answer, I will get back to you. This is a point that Members of Congress confront all the time, and I have learned the hard way, as you have learned the hard way, that sometimes it is best to simply say I don't know.

Let me make one further point, then allow you to respond.

Finally, I am impressed by the extent to which you tried to make clear in your testimony and apparently in your actions that all matters at the White House relating to this Madison Guaranty issue ought to go through the counsel's office. I am impressed that Ms. Hanson sought you out in the September occasion. I am impressed that Mr. Gearan sought you out to host the meeting in October. I am not equally impressed, however, with your testimony with respect to the February 2 meeting because it appears in that case that the meeting was organized solely for the purpose of discussing Whitewater-related issues, Madison Guaranty-related issues, and only as an afterthought did somebody call you that day and say, gee, we would like the counsel to be involved.

My question on that point is, are you concerned that not all members of the staff equally appreciated the point you tried to make about the importance of having all contacts related to this very sensitive matter go through the counsel's office.

Mr. NUSSBAUM. Yes, to some extent. You know, you come into office, you take office, you have a new administration, you set rules down, not everybody is a lawyer, not everybody is as sensitive, people try to do their best. I believe I worked with a group of highly ethical and able people, but that is why you should repeat it memoranda after memoranda. I didn't issue one memorandum, I issued one in February, one in March, one in May, one in July, continual memoranda were being issued with respect to the conduct of staff.

Sometimes, as Mr. Cutler eloquently expressed, people slip up. Sometimes they don't do the right thing, even though they may act in good faith. So I agree with Mr. Cutler ultimately that it is important to tighten up procedures, but I know people did act in good faith and people were not trying to interfere or in any way meddle with an investigation. With respect to your heads-up—I don't even like the word "heads-up." Heads-up is a word——

Mr. FINGERHUT. It isn't our word.

Mr. NUSSBAUM. It is not my word. I know it is used in Mr. Cutler's report, and I know other people use it. I never thought I got a heads-up. It wasn't a heads-up.

I got information, a bare minimum amount of information which we needed in the White House to be able to get us ready to respond to inevitable and immediate press inquiries.

If you think, Congressman, it is easy for the White House to respond to press inquiry—you say the President is named as a possible defendant in a criminal referral? I am sorry, we have no information with respect to that, we will get back to you.

If you think under that circumstance it is not going to be in the newspapers and we are on TV within an hour or two, President named as potential defendant in a criminal referral, while we are getting back to them, and if you think that doesn't do damage to the President all around the country before we can straighten it out, if you think the press waits to run its stories until we get back to them, then you are mistaken. That is why I think if it is done, I think there are dangers. I agree with you there.

Mr. FINGERHUT. That is my point. I know I am going to be——

Mr. NUSSBAUM. Then Mr. Cutler and I, I think, both agree if it is done in the right way, if it is done counsel-to-counsel and if you

act properly after that, then it is a proper procedure, but you have to monitor it carefully. Mr. Cutler believes that, I believe that.

Mr. FINGERHUT. I know I am going to be gaveled out, but is that danger, that whatever that 12-hour, 6-hour lagtime in the news is, that has to be weighed against the invitation to this constant referral policy that I am concerned about?

The CHAIRMAN. The time of the gentleman has expired.

Mr. NUSSBAUM. That is a fair statement, Congressman.

The CHAIRMAN. Well, once again, Mr. Nussbaum, we want to thank you very much in the name of this committee for your complete total cooperation, and your appearance before us today. I know that it is wearisome, tiresome, but nevertheless, I think the record will show you performed magnificently, brilliantly, and have been very helpful to the committee. So we thank you once again, and also want to take cognizance of the fact that your lovely and charming wife has accompanied you all this day, and I am sure that gave you support and sustenance.

Mr. NUSSBAUM. Absolutely, Mr. Chairman, that was very, very important.

The CHAIRMAN. I think some of the members who might want to have intimidated you felt a little less sure doing that when they saw her.

Mr. NUSSBAUM. She is my first line of defense.

The CHAIRMAN. But thank you again.

Oh, Mr. Leach wishes to offer a unanimous consent——

Mr. LEACH. Mr. Chairman, two letters have been referenced, one of which I would like placed in the record. Mr. Nussbaum has several times referenced this letter of mine relating to a possible recusal, and he has appropriately characterized it, except that the burden of my argument was for Mr. Altman to consider the issue and the burden of his arguments have been not to.

Second, there is reference to a letter to me from Mr. Ryan and Ms. Kulka which has been characterized as a very professional letter. I have a response to their letter to me that I would also like placed in the record which might leave the implication that I didn't completely agree with that characterization, so I would like unanimous consent to place both of those letters in the record.

The CHAIRMAN. Will you yield to me?

That second letter from Mr. Ryan and Ms. Kulka to you has already been placed in the record on the request of Mr. Kanjorski.

The first one is, I believe——

Mr. LEACH. I think I have two letters that are not in the record, both of which I would like placed in the record. If there is duplication, you can eliminate one.

The CHAIRMAN. Is there any objection to the unanimous consent request?

Hearing none, it is so ordered.

[The information referred to can be found in the appendix.]

Mr. NUSSBAUM. Mr. Chairman, I would like to thank you, I would like to thank Mr. Leach, I would like to thank all the members of the committee for their courtesies.

Thank you.

The CHAIRMAN. Thank you, sir.

The CHAIRMAN. The committee will now proceed with panel 2, and will invite the witnesses as requested in the order. First, Mr. Thomas F. "Mac" McLarty, the former Chief of Staff; Mr. Clifford Sloan, Associate Counsel to the President; Mr. Bruce Lindsey, Assistant to the President and Senior Advisor; Mr. Mark Gearan, Assistant to the President for Communications; Ms. Lisa Caputo, Press Secretary to the First Lady; Mr. Harold Ickes, Assistant to the President and Deputy Chief of Staff; Mr. Neil Eggleston, Associate Counsel to the President; Ms. Margaret Williams, Chief of Staff to the First Lady; Mr. George Stephanopoulos, Senior Policy Advisor to the President; and Mr. John Podesta, Assistant to the President and Staff Secretary.

Mr. MFUME. Parliamentary inquiry, Mr. Chairman. Could the Chair state for the benefit of all members, the manner in which the Chair wishes or intends to proceed with panel 2.

The CHAIRMAN. We will proceed as we have all along when we have had panels of this kind. We are just awaiting for the witnesses to arrive and be seated at their positions, and the Chair will state, though, that what I did the day before yesterday, we must bear in mind that none of these witnesses is under any shadow of accusation of any kind of wrongdoing. They are under no cloud of impropriety, and therefore remind again that this is a committee hearing. This committee, like other congressional committees, is not a prosecutorial body, it is not a judicial body, and that the fact that in these hearings we have invoked under rule X the traditional oath taken should raise no implications to the contrary, and with that, the Chair wishes to recognize the first witness, Mr. Thomas F. McLarty, ask him to please rise, raise your right hand.

[Witness sworn.]

The CHAIRMAN. The gentleman may be seated. The gentleman may proceed.

TESTIMONY OF THOMAS F. McLARTY, FORMER CHIEF OF STAFF

Mr. MCLARTY. Mr. Chairman, thank you.

Mr. Chairman, and members of the committee, my name is Mac McLarty, and as you know, I currently serve as counselor to the President. Before I joined the administration, I spent the better part of three decades in the private sector. I had the privilege to serve as chairman and chief executive of Arkla, which is a natural gas company serving 11 States, and I had the good fortune to be part of a four-generation family business.

As you also know, it was my privilege to serve the President and this country as the President's Chief of Staff from the date of his inauguration until June 17. That period includes the events which are the subjects of these hearings and which Mr. Cutler discussed earlier this week. I would like to say from the outset that President Clinton was determined that the White House cooperate fully with your inquiry, as he did with Mr. Fiske, and that relevant witnesses would voluntarily appear when asked to do so.

Mr. Chairman, we very much respect the role of this committee, and we are here today to respond to your questions to the very best of our ability.

When Lloyd Cutler arrived at the White House, I asked him to review the contacts between the Treasury and the White House concerning Madison Guaranty and to report to me and to the President on their propriety. Although we appreciate the legal conclusions rendered by the special counsel last month, it was also important to us that Mr. Cutler review and render judgments on the contacts using ethical standards, which of course, are tougher than legal ones, and to do so in hindsight, as difficult and harsh as that sometimes is. We understand that our obligations in the White House are to do our work, consistent not only with legal standards but with high ethical and performance standards as well.

The people sitting with me at this table are my colleagues and they are my friends. But they are far more than that. They are very talented people who work long hours out of dedication to this country. They are also men and women for whom ethics, integrity, and honor are not just words. The standards they set for themselves are, as they should be, the highest in our Nation. I am very proud to be with them today, as I have been proud to be their Chief of Staff.

Mr. Cutler's report, as well as the report of the special counsel, make a number of points that are important for the Congress and the American people to understand about the so-called Whitewater matter and its handling by the White House staff.

First, nothing happened. No one in the White House attempted in any way to influence the RTC's decisionmaking; no one in the White House attempted in any way to influence the RTC's decision on whether to bring claims against individuals in connection with the failure of Madison. As I understand it, that decision is still pending and will be made in due course.

Second, no one in the White House violated any law.

Third, no one in the White House violated any ethics rule or regulation.

For me these were not surprising conclusions, but it is important for the public to know the facts.

I certainly concur with Mr. Cutler's observation that contacts with agencies relating to investigations are best handled through the White House counsel, who also functions as the White House ethics officer. The President and his staff can and do look to the counsel to determine what contacts can occur, how they should occur, and who should know about them.

I also agree with Mr. Cutler, especially with the benefit of hindsight, it would have been better if some of these contacts had not occurred. I also agree with the changes he has made to prevent them from occurring in the future.

Finally, Mr. Chairman, I would like to note to this committee and help this committee keep the Madison/Whitewater matter in perspective. The committee is reviewing a period extending roughly from the end of September to the beginning of March. I think it is relevant and appropriate to note some of the things that the President and his staff were doing for the country in this period.

It was a busy and productive period for the White House and the Congress, and an important and meaningful period for the American people. We concluded on a bipartisan basis the North American Free Trade Agreement, we lifted sanctions against South Afri-

ca, we reinstituted the Super 301 Trade Powers, we obtained a GATT Agreement of longstanding.

The President convened the APEC conference in Seattle and brought our G–7 allies to Detroit for a major conference on jobs. At the same time, the President was traveling to Europe, bringing his vision of leadership to NATO with the partnership for peace concept and holding major talks with President Yeltsin and other Russian leaders. On the heels of last year's economic legislation, we have set out to improve the social fabric of our country. Working closely with the Members of Congress, we enacted major educational reform, Goals 2000, and, as all of you know, the President has introduced major health and welfare reform legislation our country so badly needs.

After getting the Brady bill passed, we are on the threshold of passing a very meaningful and important Crime bill, and our 1995 Budget and Appropriation bills are moving forward in an orderly and a timely manner. In other words, the President and his staff, including the people sitting here, had a lot to do, and they did it exceedingly well.

While some of them spent some time responding to Whitewater, all of them were engaged in a full-time way helping the President accomplish things of real importance.

We are happy to answer your questions today and indeed in many respects, we welcome them. None of us is perfect, Mr. Chairman, and hindsight invariably is 20/20, but at the end of this hearing we are confident that you will conclude, as Mr. Fiske, Mr. Cutler, and the Office of Government Ethics have that no one did anything wrong, that we have served our President and our country to the best of our ability, and that now it is time for us to get back to work.

Thank you very much.

The CHAIRMAN. Thank you very much, Mr. McLarty. Our next——

Mr. LINDER. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. Yes, state your inquiry.

Mr. LINDER. Is it your intention to question just Mr. McLarty, then comment one at a time?

The CHAIRMAN. No, we are going to recognize the witnesses if they have any statement. They have submitted statements, I think you have them, as well as biographical sketches of each witness' background and experience.

Mr. LINDER. We do indeed, and would it be acceptable to ask them if they would be prepared to put their statements in writing without having to read them? We are talking about 2½ hours' worth of reading time here.

The CHAIRMAN. Well, the Chair will say that just like the witnesses don't have an opportunity to question us for 5 minutes, we have to respect their competency in both the submission of the written statement and as to how they wish to testify orally. At this point we will proceed with the second witness, Mr. Sloan, and I will ask you to please rise and raise your right hand.

[Witness sworn.]

TESTIMONY OF CLIFFORD SLOAN, ASSOCIATE COUNSEL TO THE PRESIDENT

Mr. SLOAN. Mr. Chairman and members of the committee, my name is Clifford Sloan. I want to thank you for the opportunity to appear today before this committee. I have been an associate counsel to the President since June 1993.

In the course of my duties in the White House counsel's office, I was contacted by officials of the Department of the Treasury in connection with press inquiries and interest in Madison Guaranty Savings and Loan. These conversations consisted of a brief mention by Jean Hanson, the general counsel of the Treasury, after a meeting at the White House on a different subject on September 29, 1993; a few subsequent telephone calls from Ms. Hanson in the days thereafter; and a meeting of White House and Treasury officials on October 14, 1993. A few months later, on December 30, 1993, the Comptroller of the Currency, Mr. Eugene Ludwig, also called me briefly concerning Madison.

Mr. Cutler summarized these conversations in his testimony before this committee on Tuesday. In addition, I recently spent several hours in interviews with both the majority and minority committee staff, answering their questions about this matter. And, of course, I will be happy to answer any questions here today as well.

Before I do, I would like to make just a couple of brief points. Neither I, nor anyone else in the White House, ever sought to influence or even to comment upon the decision to refer the Madison matter to the Justice Department for further investigation. Nor did I or any White House personnel ever seek to influence or comment about the manner in which the referral was worded or who was mentioned in it.

Likewise, to my knowledge, no Treasury or RTC official ever sought or invited any comment by the White House at any time about whether a referral should be made or what form it should take. From the first mention of the Madison referral by Ms. Hanson on September 29, each of these conversations was in the context of actual or potential press interest in the matter.

Thank you.

The CHAIRMAN. Thank you, sir.

The next witness to be recognized is Mr. Bruce Lindsey. Would you please rise?

[Witness sworn.]

STATEMENT OF BRUCE LINDSEY, ASSISTANT TO THE PRESIDENT AND SENIOR ADVISOR

Mr. LINDSEY. Mr. Chairman, members of the committee, my name is Bruce Lindsey. I am an Assistant to the President and Senior Advisor. I am also from Arkansas and have known the President for over 25 years. I am, therefore, the person in the White House who generally handles press inquiries involving Arkansas matters.

I welcome this opportunity to share with this committee and with the American people the facts as I know them concerning issues about which there has been considerable divisive and, in my mind, unfortunate speculation over the past several months.

Beginning with the appearance of the first press reports suggesting improper communications between White House officials and officials of the Department of the Treasury, followed by allegations of White House interference in an RTC investigation and culminating in a grand jury probe conducted by the special counsel which concluded that no wrongdoing had occurred, we at the White House have kept our silence.

Certainly, after the special counsel, Mr. Fiske, was appointed, we believed it was important that we neither do nor say anything that could give rise to the suggestion that we might be, in any way, interfering with or attempting to influence his work. After this prolonged and sometimes frustrating silence, I am here today to tell the committee what I know and to answer your questions about this matter. I am hopeful that this will begin the process of putting to rest many of the questions, much of the confusion, and hopefully all of the rancor surrounding this matter.

In summary, the only communications I had with Treasury Department officials in which the RTC investigation of Whitewater or Madison Guaranty was raised involved no more than their informing me and my colleagues of press inquiries and discussions about how to respond to them. The inquiries began after information about RTC referrals involving Madison Guaranty was leaked to the press.

My conversations with Treasury officials centered around what the press was reporting and how, if at all, we should respond. It was always my understanding that the Treasury officials were simply passing along what they heard from the press. In fact, to this day I do not know the content of the RTC referrals.

Mr. Chairman, I am not aware of any law, ethical rule, or principle of common sense that suggests that one administrative official cannot alert another official to what the press is reporting. To suggest that something improper occurred is simply to ignore the facts. I would like to briefly outline those facts.

In late September or during the first few days of October 1993, I had a short conversation with Associate White House counsel Cliff Sloan, and perhaps Associate White House counsel Neil Eggleston, in which I learned that there had been RTC criminal referrals relating to Madison Guaranty and that the Clintons were incidentally mentioned in the referral document, but not as targets or as subjects.

My understanding was that members of the press were calling the Treasury Department or the RTC, apparently because of leaks from the RTC, and asking about the referrals. I assumed that my colleagues wanted me to know this information, so that I would not be surprised if I received calls from the press about the referrals. I have no notes of my first conversation, but to the best of my recollection, it was with Cliff Sloan alone, and it was quite brief.

I recall asking him to keep me informed of additional information. A few days later, on or about October 4, 1993, I received a call from someone outside of government reporting on other press inquiries regarding the criminal referrals. I was traveling with the President at the time and mentioned this information to him. I did not suggest, nor did the President ask, that anything—any action be taken, and none was.

The next conversation I had about this matter occurred on October 7 or 8, 1993, a few days after my discussion with the President, and was with Cliff Sloan and Neil Eggleston. My notes, which have been provided to the committee, reflect that I was informed in this conversation of specific press inquiries, including information from the press that the apparent criminal referrals included a reference to Arkansas Governor Jim Guy Tucker. I did not have any discussion with the President regarding this conversation.

The next communication that I was involved in between White House and Treasury Department officials on this subject occurred on October 14, 1993. On that date, I and several of my colleagues met with officials from the Treasury Department at the White House to discuss additional press inquiries. The meeting took place after Jack DeVore, a press official at the Treasury Department, had received a call from Jeff Gerth of the *New York Times* about the alleged criminal referrals, including a suggestion that the referrals were being bottled up in Washington, rather than going to the U.S. attorney's office in Little Rock. Mr. DeVore was seeking guidance on how to respond to the press inquiry.

He told us that he had checked and found that the referrals had initially been sent to Washington, but that, well before the reporter had inquired, they had been forwarded to the U.S. attorney's office in Little Rock. Mr. DeVore wished to confirm these facts to the reporter before an incorrect story was written. He indicated it was standard practice for the RTC to confirm the existence of a criminal referral.

I expressed to Mr. DeVore some surprise at this and suggested that rather than confirm the existence of the referrals, he should respond to the reporter by simply stating that whatever had been sent from the RTC had been forwarded on prior to the reporter's inquiry.

No one discussed or suggested that any action should be taken to influence the matter that was the subject of the RTC referrals. To my knowledge, other than my checking campaign records with regard to one of the questions the reporter asked, nothing further was done after the October 14 meeting other than Mr. DeVore responding to the reporter's inquiry.

In early December 1993, I received faxes from two Treasury Department officials of press-generated Freedom of Information Act requests for Madison documents. These came to me without comment, and I took no action with respect to them.

The final so-called White House/Treasury contact with which I was involved occurred sometime in February 1994, and again was precipitated by a press inquiry. A reporter contacted a press officer at the Treasury Department about a meeting between White House and Treasury officials, at which there was a briefing on the RTC civil statute of limitations. The reporter said that she understood that at the meeting a White House official attempted to pressure the Treasury Department to give a similar briefing to the private attorneys involved in the matter. This press inquiry to the Treasury Department was forwarded to the White House press office who passed it along to me.

Since I had not attended any such White House/Treasury meeting, I called Roger Altman, whom the reporter had indicated was

at the meeting, and asked him whether such a meeting had occurred, and if so, what had happened. Mr. Altman told me that there was a meeting in early February at which he and other Treasury officials briefed White House officials on the statute of limitations issue. Mr. Altman told me that a White House official had asked him whether a similar briefing would be given to the private attorneys in the matter. Mr. Altman said that he had checked with an RTC official, who indicated that such a briefing would be given at the appropriate time, but not now. Mr. Altman told me that no one at the meeting instructed him to do anything. I advised Mr. Altman that he should respond to the press inquiry accordingly, and I took no further action.

I have now informed this committee of all White House/Treasury communications in which I was involved. I have also produced my contemporaneous notes and memoranda relating to these matters, which reflect what I have just recounted.

In closing, let me restate as clearly as I can, none of the conversations involved any effort by anybody to influence the conduct of any investigation. None of them revealed confidential information. They were discussions advising us of reporters' questions, and discussions about how to respond.

The CHAIRMAN. Would the gentleman yield to me? May I ask the photographers to lower the camera? It was interfering with our line of view with the witness, and that is against the rules. So I just want to point that out.

The witness may continue.

Mr. LINDSEY. Again, none of these conversations involved any effort by anybody to influence the conduct of any investigation. As I said, they were simply conversations advising us of the press inquiries and discussions about how to respond. Nothing improper occurred.

At the proper time I'll be happy to answer any questions from the committee.

[The prepared statement of Mr. Lindsey can be found in the appendix.]

The CHAIRMAN. Thank you very much.

Our next witness is Mr. Mark Gearan. Will you please stand and raise your right hand.

[Witness sworn.]

The CHAIRMAN. The gentleman may be seated.

STATEMENT OF MARK GEARAN, ASSISTANT TO THE PRESIDENT FOR COMMUNICATIONS

Mr. GEARAN. Good afternoon, Mr. Chairman, members of the committee. My name is Mark Gearan, and I am an Assistant to the President and Director of Communications at the White House. I appreciate the opportunity to appear before you today and to answer as many questions as I possibly can on the matters currently before the committee.

As the Director of Communications in the White House, it's my job to provide members of the press with information about the administration's legislative and policy agenda in the most complete and accurate way we possibly can.

In his statement to the committee on Tuesday, the White House special counsel, Lloyd Cutler, accurately reported the circumstances of the single meeting I attended briefly on October 14, 1993. My notes from that meeting, which have been provided to the committee, reflect that the purpose of the meeting was to discuss press inquiries, that the Treasury Department spokesman had received from reporters.

The meeting was held in the office of the White House counsel, Mr. Nussbaum. The portion of the meeting which I attended dealt solely with information that was requested from the Treasury Department spokesperson by reporters. No confidential information was imparted to us at that meeting while I was in attendance. The independent counsel, Mr. Robert Fiske, has concluded that nothing illegal occurred at that meeting. The White House special counsel, Mr. Lloyd Cutler, has concluded that nothing unethical occurred at that meeting. That was my recollection of the meeting at the time that I was there, and it remains so today.

I respect the efforts of this committee certainly to look at this meeting and to shed light on it, so that if there are concerns expressed, they can be addressed.

Thank you very much.

[The prepared statement of Mr. Gearan can be found in the appendix.]

The CHAIRMAN. Thank you, Mr. Gearan.

Ms. Caputo, will you please stand.

[Witness sworn.]

STATEMENT OF LISA M. CAPUTO, PRESS SECRETARY TO THE FIRST LADY

Ms. CAPUTO. Mr. Chairman, members of the committee, ladies and gentlemen, my name is Lisa Caputo. I am Deputy Assistant to the President and Press Secretary to the First Lady. I am here today at the committee's request to answer questions relevant to the committee's inquiry.

I've been the First Lady's Press Secretary since January 1993. I served as Mrs. Clinton's Press Secretary during the 1992 Presidential campaign, and during the Presidential transition. Prior to joining Mrs. Clinton, I worked for press—as press secretary to Senator Tim Wirth of Colorado, and Representative Bob Traxler of Michigan.

As Press Secretary, I manage the First Lady's media relations and serve as her spokesperson. This job entails communicating with reporters and others about press coverage of Mrs. Clinton.

Sometime late last fall, I returned a telephone call from a person in the RTC's press office. I don't know the name of the person who called me, but I do recall that it was a man. He told me that the RTC had received inquiries from the press about Mrs. Clinton and Whitewater. He said something to the effect that two of the television networks were pursuing stories on the subject. I thanked him for letting me know, and as far as I can recall, that was the end of the conversation.

I did not do anything as a result of the telephone conversation. To the best of my recollection, it is the only contact I have ever had with any representative or employee of the RTC.

Mr. Chairman, as far as I am aware, no one has suggested that there was anything improper about this brief conversation, but I am happy to answer any questions the committee has about it.

Thank you.

[The prepared statement of Ms. Caputo can be found in the appendix.]

The CHAIRMAN. Thank you very much, Ms. Caputo.

Mr. Ickes.

[Witness sworn.]

Mr. ICKES. I do.

The CHAIRMAN. You may be seated.

STATEMENT OF HAROLD ICKES, ASSISTANT TO THE PRESIDENT, DEPUTY CHIEF OF STAFF

Mr. ICKES. Mr. Chairman and members of the committee, my name is Harold Ickes, I am an Assistant to the President and Deputy Chief of Staff. I want to thank you for this opportunity to inform this committee and the American people about the facts concerning contacts between the White House and the Treasury Department officials relating to Madison Guaranty Savings and Loan.

I, like my White House colleagues, have fully cooperated in every—with every inquiry into this matter.

Let me briefly highlight for you the events relating to my involvement in these matters. In doing so, I ask you to remember that my days, like yours, are long and busy, that there were many other matters that I was dealing with at the time, and that it is hard, months later, to separate what I knew at the time the events occurred from what I subsequently learned from press accounts and public discussions of these matters.

I joined the White House staff in January of this year. I am primarily responsible for managing the President's health care initiative. But for a period of time, when I came to the White House, I was responsible for pulling together a working group to coordinate the White House's response to press inquiries concerning what is generically known as Whitewater.

In late January and early February, as you will recall, Republican Members of Congress began making an issue about the statute of limitations expiring with respect to the Resolution Trust Corporation's inquiry into Madison Savings and Loan, one piece of the Whitewater story. I was aware that certain Members of Congress were pressing this issue in an effort to embarrass the President politically.

At about this time, Roger Altman asked to meet with myself and Mac McLarty, who was then the Chief of Staff. To the best of my recollection, he did not specify the subjects that would be discussed. The meeting occurred on February 2, 1994. I attended, along with Mr. Altman, Margaret Williams, Mrs. Clinton's Chief of Staff, and three attorneys—White House counsel Bernard Nussbaum; Neil Eggleston, who works in the White House counsel's office; and Jean Hanson, the general counsel of the Treasury Department.

I cannot remember the specific words anyone spoke, but I recall generally that for most of the meeting Mr. Altman made a presentation about the procedural options available to the RTC in view of the statute of limitations deadline that was facing the agency in

the Madison inquiry. Up until this presentation, I do not recall being aware that Mr. Altman served as Acting Chairman of the RTC, or that he had any particular authority in that role with respect to the Madison investigation.

Mr. Altman did not discuss any substantive information about the Madison investigation. Toward the end of the meeting, Mr. Altman stated that he was considering recusing himself from the Madison matter. I, and others present, inquired as to why he was considering recusal, and to the best of my recollection, he said it was because he was a personal friend of the President.

I'm not an expert on such issues, and I think I expressed my view that this did not appear to me to necessitate—to necessitate his recusal. Others presented similar views. But we conveyed to Mr. Altman that the decision was entirely up to him. At the close of the meeting, Mr. Altman indicated that he would further consider the issue and let us know what he decided. Within a day or two, he informed me that he had decided not to recuse himself.

As you know, the RTC statute of limitations for civil investigations was extended by statute in mid-February, and the President promptly signed this bill into law. Once that happened, the deadline for any decision concerning Madison and the procedural options that we had discussed at the February 2 meeting were no longer of any relevance.

Following the events of early February, to the best of my recollection, the next time that I discussed the issues relating to the RTC oversight of Madison with Roger Altman was on the evening before he was scheduled to testify before the Senate Banking Committee. The hearing was on February 24, so this discussion must have occurred on February 23. I don't recall the specifics of the conversation, but generally I recall Mr. Altman informing me that he was considering either before or as part of his testimony announcing his recusal from the Madison matter, and he wanted to know if I had any thoughts on that.

I believe I asked him whether any circumstances had changed since early February that would cause him to change his decision not to recuse. He said they had not.

I further believe that I told him it was entirely up to him, but that if I had any thoughts on the subject, I would get back to him. He asked me to call him later that evening, when he returned from an outside event—from an—outside of his office.

Rather than wait, I phoned one of his aides, Josh Steiner, a short while after my conversation with Mr. Altman. I repeated what I had discussed with Mr. Altman, and asked Mr. Steiner to convey to Mr. Altman that I had no further thoughts on the subject and that it was entirely up to him whether to announce his recusal the next day.

During his testimony, Mr. Altman did not say he was going to recuse himself from the Madison matter. As you may recall, the news accounts the day after Mr. Altman's testimony focused on his statement at that hearing that he had met with White House officials in early February to discuss the statute of limitations issue with respect to Madison. As a result, the White House was getting many press inquiries about the issue of contacts with Mr. Altman,

as well as the fact that he had not recused himself, and we had been attempting to respond to those inquiries.

At some point during the day, February 25, George Stephanopoulos informed me that he had heard that Mr. Altman had announced that he was going to recuse himself from the Madison matter, and that he had done so in the course of a conversation with the editorial page editor of the *New York Times*, without notifying the White House in advance of his decision. Mr. Stephanopoulos and I decided to call Mr. Altman immediately to confirm if that were true.

Mr. Altman confirmed these events, and we expressed surprise that he had chosen to announce his recusal to a newspaper editor. We had been caught off guard, especially because we had been fielding questions from the press on these issues.

I'm aware that Mr. Steiner's diary reflects that we indicated to Mr. Altman that the President was, quote, "furious," close quote, about these advan-—these events. As far as I know, Mr. Steiner was not a party to that phone call. I do not recall making such a statement, and I would not have had any basis for making such a statement because I did not speak to the President between the time I learned that Mr. Altman had recused himself during a conversation with the *New York Times* and the time when we called Mr. Altman.

In any event, Mr. Altman asked what steps he could take to notify the President, and as I recall, Mr. Stephanopoulos suggested he should write the President a note.

I should also add that at some point in time I recall briefly informing the President and Mrs. Clinton in separate conversations that the February 2 meeting had occurred and that Mr. Altman had decided not to recuse himself. I spoke with the President and the First Lady several times a week about a number of matters and cannot recall the specifics about these conversations or when they took place. I recall that neither of them had any particular reaction to the information, nor did they ask me to take any action with respect to the recusal issue.

I also recall speaking to the President at some point in time about the RTC's retention of Jay Stephens. The President expressed concern that such a highly partisan individual could have received such an appointment, but he did not ask me to contact the Treasury or the RTC or to take any other action with respect to the Stephens appointment. Nor did I take any.

I have outlined for you the essence of any conversations that I presently recall having with Mr. Altman concerning the RTC's inquiry into Madison. There was nothing in any of these contacts that was intended to influence or that did have the effect of influencing any RTC decision with respect to Madison. As I understand it, Independent Counsel Fiske concluded that there was nothing illegal about these contacts, and White House Special counsel Lloyd Cutler has found that there was nothing unethical about them.

I will be happy to answer any questions you may have about these events. Thank you.

[The prepared statement of Mr. Ickes can be found in the appendix.]

The CHAIRMAN. Thank you, sir.

Our next witness is Mr. Eggleston.
Will you raise your right hand?
[Witness sworn.]
Mr. EGGLESTON. I do.
The CHAIRMAN. You may proceed, sir.

STATEMENT OF NEIL EGGLESTON, ASSOCIATE COUNSEL TO THE PRESIDENT

Mr. EGGLESTON. Mr. Chairman, Mr. Leach, and members of this committee, my name is Neil Eggleston. I am an associate counsel to the President. I began working in the White House in September 1993, just before the events that are the subject of this hearing began.

I've spent a large portion of my professional career in public service. I am proud of that service, and proud that I have served in all three branches of this government.

In the late 1970's, I served as a law clerk to two Federal judges, including the Honorable Warren E. Burger, then-Chief Justice of the U.S. Supreme Court. I then became an assistant U.S. attorney in the Southern District of New York. I left that job in 1987 to come to work for the House of Representatives as deputy chief counsel of the House Iran-Contra Committee.

As Mr. Cutler's chronology makes clear, I was involved in some of the contacts that took place between the White House and the Treasury Department, and I'm not going to review for this committee at this time each and every one of those contacts. But let me say that, as to each of those contacts, I was acting in my official capacity and assisting others in responding to press and congressional issues.

The first meeting that I attended with representatives of the Treasury occurred on October 14, 1993. That meeting related to press inquiries that Treasury had received about criminal referrals on the Madison matter. These press inquiries were apparently prompted by quite detailed leaks from the RTC to the news media, including the fact that the Clintons' names appeared in the referral. I do not believe that I learned any information during that meeting that was not prompted by those press inquiries.

Indeed, leaks from the RTC appeared a few weeks later in articles in the *Washington Post* and in the *New York Times*. I have no reason to believe that any White House official took any steps to influence the RTC, based on the information that the White House received concerning those criminal referrals.

I also participated in the February 2, 1994 meeting with Mr. Altman that took place in the White House. During that meeting, I learned nothing whatsoever about the substance of the RTC civil investigation into Madison. The meeting principally concerned the procedures the RTC would follow in deciding whether to bring civil actions or to seek a tolling agreement to prevent the running of the then applicable statute of limitations.

With regard to the subject of Mr. Altman's consideration of the recusal issue, I recall that three points were made quite clearly during that meeting: First, that if Mr. Altman had a legal or ethical obligation to recuse himself, he would do so and do so immediately; second, that regardless of whether he formally recused

himself, he was essentially, de facto, recusing himself because he informed us that he would follow, without question, the recommendation that came to him from the career staff of the RTC; and third, that the decision of Mr. Altman, whether he should recuse himself, was left entirely up to him.

Mr. Chairman, I have met with staff of this committee for several hours and have discussed with them at some considerable length my knowledge of the White House/Treasury contacts. I am prepared, sir, at the appropriate time, to respond to any questions that any member of this committee might have about my knowledge of this matter.

Thank you, sir.

[The prepared statement of Mr. Eggleston can be found in the appendix.]

The CHAIRMAN. Thank you, Mr. Eggleston.

Our next witness, Ms. Williams.

[Witness sworn.]

TESTIMONY OF MARGARET ANN WILLIAMS, CHIEF OF STAFF TO THE FIRST LADY

Ms. WILLIAMS. I am Margaret Williams—I am Margaret Williams, Assistant to the President and Chief of Staff to the First Lady.

I am grateful to Chairman Gonzalez and members of this committee for the opportunity to address you concerning my very limited contact with the Treasury Department in connection with the work of the Resolution Trust Corporation. That contact was confined to a meeting on February 2 of this year and an encounter with Deputy Treasury Secretary Roger Altman several days later.

But prior to my testimony, I think the committee might find it useful to know a little bit about my professional background and my duties and responsibilities as Assistant to the President and Chief of Staff to the First Lady.

My appointment to President Clinton's staff came after a brief stint with the Clinton-Gore campaign, where I served as Mrs. Clinton's communications director. Following my work on the campaign, I served as transition director for Mrs. Clinton's move into the White House.

I joined the staff of the Children's Defense Fund in 1985 as senior media analyst responsible for developing and overseeing an advertising campaign on teen pregnancy prevention. In 1988, I became CDF's director of media affairs and served on CDF's six-member management committee.

I then worked for the Center on Budget and Policy Priorities, developing media relations programs for that organization. I have served as a campaign press secretary for a national and congressional campaign and held a number of media-related jobs.

I hold a master's degree from the Annenberg School of Communications at the University of Pennsylvania.

As 1 of the 17 Assistants to the President, I participate as directed by the Chief of Staff to the President in management issues and communications meetings and work groups.

As Chief of Staff to the First Lady, I manage, direct, and advise a staff of 13—excuse me—who support the activities of the First

Lady. Those areas include policy, press relations, White House events and social activities, scheduling, and correspondence. Because of Mrs. Clinton's involvement in health care policy, I spend a good deal of time facilitating selected health care issues across White House departments and the Cabinet.

Late last year, the number of Whitewater press questions began to increase, and my staff was required to spend more and more time trying to respond or helped respond to those inquiries.

Let me make it clear that I was not involved in the legal representation of the President or Mrs. Clinton, that my activities with regard to Whitewater generally involved addressing management and information concerns related to overwhelming media interest in the matter.

I also made a conscious decision that I and other members of the First Lady's staff would not use our time discussing Whitewater with Mrs. Clinton unless we were trying to obtain facts to answer press inquiries, facts which could not be found elsewhere. I believed that our priority was health care and that we could keep our focus and help her keep her focus by using the time we had with her on health care and on her many official and social obligations.

Let me now address my involvement in the meeting of February 2, 1994. The meeting was placed on my calendar by my executive assistant. She noted in the entry that Mr. McLarty, then Chief of Staff to the President, wanted me to attend a meeting regarding the statute of limitations in his office. That was the only information I had about the meeting prior to joining it.

I had no discussions with Mr. Altman about the issue raised at the meeting prior to that meeting, nor did I have any contact with anyone at the Treasury Department concerning the subject of this meeting prior to it being held.

I joined the February 2 meeting in progress. Mr. Altman, with whom I had had previous contacts as a member of the administration's health care team, was speaking to the assembled group.

As I recall, Mr. Altman was explaining a process by which the Resolution Trust Corporation staff would present to Mr. Altman a recommendation as to whether or not to seek a waiver of the statute of limitations from the President and Mrs. Clinton in connection with the RTC's investigation of an Arkansas bank. The significance of this for my office was that if and when a waiver were sought it was sure to generate a new wave of press inquiries which my office, in conjunction with the rest of the White House, should be ready to respond.

Mr. Altman went on to explain that he might not be the official to whom this waiver issue would be presented. In this context, he raised the issue of recusal from the process he was describing. He then explained that if he recused himself, a member of the RTC staff would make the final decision.

He also stated that, in any case, if he did not recuse himself, he intended to follow the RTC staff recommendation, whatever it might be. I took him to mean that he did not see any need to overrule the RTC staff and that they would decide the proper way to discharge their duties.

I then expressed my personal reaction to what Mr. Altman had said, questioning why he would recuse himself if he intended to fol-

low the staff recommendation. It seemed to me by accepting the staff recommendation no one would challenge his integrity. I recall Mr. Nussbaum responding to my statement by saying it was a decision that Mr. Altman would have to make.

I do not have a clear recollection of the rest of the meeting. It lasted for approximately 45 minutes. I left the meeting when it was over. I took no action other than to make a mental note to be alert to this issue as it unfolded.

Several days after the meeting on February 2, I received a call from Mr. Altman telling me that he had decided not to recuse himself and asking if I could gather a few White House staff members so he could make his announcement. I do not recall if Mr. Altman specified what staff members.

However, I did call the White House counsel's office and reached Mr. Nussbaum or Mr. Eggleston—I can't remember which. I called Mr. Ickes and Mr. Stephanopoulos. Mr. Altman stopped by my office in the West Wing shortly thereafter and spoke briefly to the individuals that had gathered in my office and hurried away to another appointment.

That concludes my prepared remarks, and I welcome any questions the committee might have. Thank you.

[The prepared statement of Ms. Williams can be found in the appendix.]

The CHAIRMAN. Thank you, Ms. Williams.

Our next witness is Mr. George Stephanopoulos.

[Witness sworn.]

TESTIMONY OF GEORGE STEPHANOPOULOS, SENIOR POLICY ADVISOR TO THE PRESIDENT

Mr. STEPHANOPOULOS. Mr. Chairman, members of the committee, I am George Stephanopoulos, and I serve as Senior Policy Advisor to the President.

My contacts with Treasury officials respecting matters which are the subject of these hearings are essentially limited to two brief telephone conversations on February 25, 1994.

The first occurred with Josh Steiner, Treasury Chief of Staff, concerning Roger Altman's decision to announce his recusal from decisions concerning Madison Guaranty. Mr. Steiner was my regular point of contact at Treasury for obtaining information that affected administration policy.

In the course of that conversation, I asked about the decision to hire former U.S. attorney for the District of Columbia, Jay Stephens—a vocal, persistent, and public political opponent of the President—to handle the RTC inquiry of Madison. I was puzzled at how he could have been hired, given his obvious inability to be impartial, and asked how that decision was made, anticipating that press inquiries concerns Stephen's hiring would ensue.

As Mr. Cutler testified yesterday and I have said publicly in the past, I did blow off steam in that conversation, based on my belief that Mr. Stephens had and has a conflict of interest, that he could not be an impartial investigator. Mr. Steiner informed me that the decision had been made by an independent board. That ended the conversation. I took no further action.

I believe later that day I had a conversation with Harold Ickes and Roger Altman during which the subject of his recusal was discussed, specifically, as I recall, that he had informed a *New York Times* editor that he had decided to recuse himself. I was concerned that because of the manner in which he had chosen to announce his decision the administration would, for a time, be maintaining inconsistent public positions on this issue. I suggested that Mr. Altman write the President a personal note explaining his decision as a courtesy. I took no further action regarding this issue.

Thank you very much.

[The prepared statement of Mr. Stephanopoulos can be found in the appendix.]

The CHAIRMAN. Thank you, sir.

Our final witness, Mr. John Podesta.

[Witness sworn.]

TESTIMONY OF JOHN D. PODESTA, ASSISTANT TO THE PRESIDENT, STAFF SECRETARY

Mr. PODESTA. Mr. Chairman and members of the committee, my name is John Podesta. I am Assistant to the President and White House Staff Secretary, a position I have held since Inauguration Day, January 20, 1993. My principal duties involve managing the paper flow going to and from the President.

Earlier in my career, I spent more than 9 years as staff counsel on two Senate committees, the Judiciary Committee, and the Committee on Agriculture and Nutrition and Forestry. As a result of my Capitol Hill experience, I have from time to time been asked at the White House to work on legislative and congressional matters. It is in this context that my connection to this matter before this committee took place.

On or perhaps just before February 14, 1994, I was asked by Mac McLarty and Pat Griffin, the Director of White House Legislative Affairs, to work on the upcoming hearings involving RTC matters. Mr. Griffin had recently joined the White House staff and was concentrating his time on—and attention on—the passage of the President's legislative program, principally health care reform.

In anticipation of upcoming RTC oversight hearings, we expected questions on Madison Guaranty to be raised, some fair and some posed merely to embarrass the President and slow down his legislative program. My task, as I saw it, was to analyze what was likely to take place at the hearings and to recommend ways to ensure that the hearings were fair and balanced. This assignment was in addition to my regular duties and did not consume the majority of my time.

As best as I can recall, this is a summary of what occurred over the following days.

On February 15, I met with Mike Levy, Assistant Secretary of the Treasury, and discussed the expected RTC Oversight Board hearing in the Senate Banking Committee. Mr. Levy briefed me on the composition and functions of the RTC Oversight Board.

During the remainder of that week, Mr. Levy and I had several telephone conversations concerning the hearing. We never discussed the underlying investigation of Madison, nor did I discuss that subject with anyone else at Treasury or the RTC.

Mr. Levy and I did briefly discuss the fact that Roger Altman would need to be prepared to answer questions about recusal and whether the fact that Ricki Tigert, our nominee to Chair the Federal Deposit Insurance Corporation, had been pressured on recusal during her confirmation hearings.

I did not try in any way to influence the substance of Mr. Altman's answer on the subject of recusal. My discussion with Mr. Levy only went to the fact that Mr. Altman needed to be prepared to respond to questions on this subject.

In the several days before the hearing, I also spoke by telephone on two or three occasions to Joshua Steiner, Secretary Bentsen's Chief of Staff. At this time, it is difficult for me to separate these conversations or to remember them with precision.

I believe I initiated the first call to ask Mr. Steiner to encourage Secretary Bentsen to take a prominent role at the hearing. Again, this was to ensure that the hearing was broadly focused on our administration's overall handling of the S&L cleanup and to contrast that record with the record of previous administrations.

About this time, I became aware that Mr. Altman had met on February 2 with White House staff. I believe I raised with Mr. Steiner the fact that Mr. Altman probably would be asked a question about whether he had consulted with the White House on the Madison matter, and they needed—and that he needed to be able to discuss the February 2 meeting in response to such a question. I did not try to influence the substance of Mr. Altman's response.

Mr. Steiner told me that Mr. Altman planned to put in his opening statement the fact that he intended to leave the RTC when his Vacancy Act term expired at the end of March, which I passed along to others in the White House.

In the several days following Mr. Altman's February 24 testimony, I spoke by telephone to Mr. Steiner on three or four occasions.

On February 25, Mr. Steiner told me that Mr. Altman had recused himself from Madison matters. Mr. Steiner also told me about the procedures the RTC went through in hiring Jay Stephens, the former Republican U.S. attorney, to pursue RTC civil claims arising out of the Madison failure.

Finally, following a meeting on March 1 at the White House at which Mr. Nussbaum, Mr. Klein, Mr. Eggleston, Mr. Sloan, Mr. Lindsey, and I discussed Mr. Altman's testimony, I spoke with Mr. Altman about the possible need to supplement his testimony on three points: First, how the February 2 meeting was arranged; second, the fact that recusal was discussed at that February 2 meeting; and, third, whether anyone from the RTC had advised the White House of the criminal referrals involving Madison.

Mr. Altman and I had what, in my view, was constructive conversation on the three points, which resulted the next day in Mr. Altman's letter supplementing the record concerning the fall meetings. Mr. Altman later sent a letter on the recusal point.

I had no subsequent conversations with Treasury or RTC personnel that related in any way to Madison Guaranty.

That concludes my prepared remarks. I look forward to answering your questions.

[The prepared statement of Mr. Podesta can be found in the appendix.]

The CHAIRMAN. Let me state that I'm very much impressed with the witnesses' directness, forthrightness, and succinctness, above all. All 10 of you have taken less than 1 hour. And that, I'll tell you, is a record of any panel I've ever had the pleasure of having presented before the committee, including the Governors and presidents of the Federal Reserve Board, which panel was greater than this one.

In other words, what I am saying is that I think it's very indicative that you have considered the committee's size and all, and for that I want to express my gratitude.

I believe that persons who haven't had an opportunity to deal with any particular Presidential administration in a semi-intimate fashion don't realize the scope and the tremendous amount of work called for from the support staff.

I was going to ask you, those of you who wish to answer, about how many days a week is your typical week work in a period? Is it a 5-day, 9 to 5, or is it a full 7-day job? Is any member of this panel able to tell us that they work no more than 5 days a week and 8 hours a day? I think not. I realize that.

But that brings to point—you know, we've heard about these whatever you want to call them—I would say briefings and contacts—and there's disputation as to whether there were 18 or 20 or 40.

But I am going to ask you, Mr. McLarty, you've been the Chief of Staff the longest, about what would be the total amount of time that was involved in these contacts that these hearings are about?

Mr. MCLARTY. Mr. Chairman, the amount of time would be a very small one in terms of the total White House activity. I think you've described it well. And that was part of my comments about the other activities that took place during this period of time in the White House that had real meaning to people's lives in this country.

The CHAIRMAN. Also, I have a question about these statements, some in so-called diaries, that allegedly describe the First Lady's state of mind. Has the source of these statements, that is, the author of the diaries, had any kind of preferential access or privileged access to either the President or the First Lady?

Mr. MCLARTY. Mr. Chairman, they have not.

The CHAIRMAN. OK. So that, actually, when we talk about you, the White House staff, assistant counsel, and whatnot, what are we talking about when we say about your access to the President? Is it something that involves a daily visitation with the President? Other than the Chief of Staff?

Mr. MCLARTY. Mr. Chairman, I think it would depend on the person's responsibilities and the activities at that time. It would vary in person to person on this particular panel.

The CHAIRMAN. I just think that there's another thing. Every one of you, I understand, were summoned before the grand jury by the special counsel. Am I correct?

Mr. MCLARTY. I think all of us from time to time have given interviews, depositions, and some have appeared before the grand jury, Mr. Chairman. I believe that's accurate.

The CHAIRMAN. All right, sir. Thank you.

My time is up. Mr. Leach.

Mr. LEACH. Thank you, Mr. Chairman.

In order to obtain continuity in questioning on the minority side, we will be yielding back and forth to our colleagues. Before yielding to Mr. McCandless, I just want to stress, as the chairman did in his opening remarks, that nobody is here with any sort of investigatory shadow on their heads.

With that, I am going to yield to Mr. McCandless.

Mr. MCCANDLESS. Thank you, Mr. Leach. I concur in that comment.

Mr. Chairman, I've taken a lot of interest in the negativeness with which that side of the panel, of the committee, has addressed this issue, the issue of these hearings and the activities of this committee.

And I would remind these gentlemen that many of us suffered through 1988 and 1989 to create the Financial Institutions Reform, Recovery and Enforcement Act, referred to as FIRREA. And, for better or for worse, a part of an attempt to address a serious national financial problem, RTC was created.

Furthermore, section 501 of that particular bill said that there would be semiannual reports to this committee and that following those reports hearings would be held. The last hearing that was held was in March 1993 on the previous administration's activities.

My concern here today, and my concern in participating in this, is not to embarrass the President, or to embarrass any member of his staff. But we do have an RTC problem here with Madison Guaranty Savings, the operational activities of its officers, which resulted in the failure of that institution, causing a $50 million payout of public money by RTC. And I believe this committee is entitled to, under FIRREA, to learn the circumstances there.

The CHAIRMAN. Will the gentleman cease?

Mr. MCCANDLESS. Having said that, Mr. Chairman, I would like to move on, because I have 5 minutes.

The CHAIRMAN. The gentleman is entering into an area that clearly places him out of order for this hearing.

Mr. MCCANDLESS. Mr. Chairman——

The CHAIRMAN. As you know, the Arkansas aspect of Mr. Fiske's investigation is ongoing. And we're honor bound——

Mr. MCCANDLESS. Mr. Chairman, I reclaim my time.

The CHAIRMAN. Well, the Chair is not wanting to declare the gentleman out of order unless he persists in reaching into this——

Mr. MCCANDLESS. Mr. Chairman, I made a statement. I now have questions I would like to ask. I'd like my time back, if I may.

The CHAIRMAN. Will the gentleman then state his questions?

Mr. MCCANDLESS. I will.

The CHAIRMAN. OK.

Mr. MCCANDLESS. My questions are directed to you, Mr. Sloan. And I noted in your statement that you referred to the September 29 meeting so let's start there.

It's my understanding that, after attending a briefing on the Waco, Texas, matter, that Mr. Nussbaum called you into a meeting with Treasury's general counsel, Jean Hanson. Isn't that correct?

Mr. SLOAN. That's correct.

Mr. MCCANDLESS. At the meetings, Hanson told you that the RTC had prepared eight or nine criminal referrals concerning the failure of Madison Guaranty and that these criminal referrals mentioned the 1984 Clinton campaign as a potential subject. Isn't that right?

Mr. SLOAN. That's not exactly right, Mr. McCandless.

Mr. MCCANDLESS. What is your version? Please limit your answer because you can see the chairman yields a rather strong gavel.

Mr. SLOAN. My recollection is that she said, first of all, that there had been a referral of eight or nine matters or eight or nine referrals. She said that there might be press inquiries about this matter. And she said that the Clintons were mentioned.

And she said there was a more extensive reference—or I don't remember if these were her exact words, but there was some more extensive reference to the 1985 campaign. What stayed in my mind was the Clintons were potential witnesses and the Clinton 1985 campaign was a potential subject. But I don't recall whether she used those words, Mr. McCandless.

And there is one other qualification which I think it's necessary to make, which is that my recollection of these conversations is somewhat hazy, and I may be compressing some different conversations from that period. And in the interest of completeness I feel it necessary to make that qualification.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LEACH. Mr. Chairman, I would like to ask unanimous consent the gentleman be given 1 additional minute simply because so much of the byplay that occurred during his time.

Mr. BACCHUS OF FLORIDA. Objection.

The CHAIRMAN. In this case—well, the Chair would not recognize for that purpose.

Mr. BACCHUS OF FLORIDA. Objection withdrawn.

The CHAIRMAN. And also the fact that if time was lost it was because of the forbidden trespassing into off-limits areas by the gentleman.

Mr. MCCANDLESS. Mr. Chairman, I made those comments because of the acts and actions of the members of the majority party during the hearing today.

The CHAIRMAN. Well, the gentleman is out of order again.

We have a few minutes here. Mr. Neal.

Mr. NEAL. Thank you.

You know, first, I'd like to commend you, Mr. Chairman, because you've done a great job of chairing these hearings. You've been absolutely fair and impartial. And in a way, I hesitate mentioning it, because I think you always are, but I did want to mention it particularly today and concerning the other hearings.

And I also want to commend the panel. I am very pleased to say that I think that you and our previous witnesses have removed any doubt about the President concerning the matters that are before us. I don't agree with the President all the time, but I think that our differences ought to be based on the merits, not some innuendo and slander and smear and so on, which seems to have become so much a part of our political system these days.

Now, let me ask you all this question. I understand that in the fall of 1993 the White House was told by Treasury that the RTC criminal referrals might mention the Clintons or identify them as possible witnesses. Now, did you or any other White House employee ever suggest that the Clintons should not be identified as possible witnesses in the criminal referrals?

I guess it's a little awkward asking everyone on the panel in that way. Let me put the question a little bit differently.

Did any of you suggest, ever suggest, that the Clintons should not be identified as possible witnesses in the criminal referrals? No. I understand everyone is saying no, is that correct? Let the record show that everyone answered no.

[All witnesses shaking their heads.]

Mr. BACHUS OF ALABAMA. Point of order. I didn't hear them say anything. Maybe we can number them 1 to 10.

Mr. NEAL. It's my time. I don't think it's necessary. If somebody wants to say yes, they can speak up. We'll hear them. Did you or any of you ever attempt to have the Clintons' names removed from referrals?

[Chorus of noes from the panel.]

Everyone heard that. Thank you.

Did you or any of you take any steps to stop the criminal referrals going forward?

[Chorus of noes from the panel.]

Has a nice ring to it.

Did any of you attempt in any other way to interfere with the criminal referrals?

[Chorus of noes from the panel.]

All right, I thank you.

Since I have a little time remaining, let me sort of follow up on what the chairman started talking about in terms of time. I just wonder if there's anyone on this panel who spent more than a few hours on this subject. Is there anyone—would anyone on the panel say that they had spent more than a few hours in—during your entire employment on this subject? Mr. Podesta, you might have.

Mr. PODESTA. Mr. Neal, I may have spent 10 or 12 hours on this subject.

Mr. NEAL. And how long have you worked for the President?

Mr. PODESTA. Since January 20, 1993.

Mr. NEAL. Since 1993. So that's 1 year and—almost 1¾ years.

Have any of you, other than you, worked as much as 10 hours on this? Yes, Mr.——

Mr. LINDSEY. I may have spent more than 10 hours, mostly trying to educate the press.

Mr. NEAL. Anyway, the point I am trying to make is, you know, if you all worked an average of 70 hours, you'd work—for 1½ years you'd work 5,250 hours. You all worked at least that much on average a week, and if you put in 10 hours out of 5,250 hours, no one spent much time on it. That's the point I am trying to make.

And this thing has been presented often in the press and by others as a big deal over there. And, honestly——

Mr. KNOLLENBERG. Point of order, Mr. Chairman.

Mr. NEAL. Obviously, it's——

Mr. KNOLLENBERG. Point of order.

Mr. NEAL. And I thank you all for your responses and your testimony today.

Mr. KNOLLENBERG. I have a question about the 52—maybe I misunderstood, but did you say 5,250 hours?

Mr. NEAL. I did. I said, if a person worked 70 hours a week over a 1½ year period, that would total 5,250 hours.

Mr. KNOLLENBERG. Thank you.

Mr. SCHUMER. That's a point of mathematics, Mr. Chairman, not a point of order.

Mr. KNOLLENBERG. Thank you.

The CHAIRMAN. The gentleman could have asked him to yield for that.

I don't want to press any of the members here. We have about, I'd say, 8 minutes. So I think it would be prudent if we recess briefly to allow the members to record their vote.

[Vote recess.]

The CHAIRMAN. The committee will come to order.

Mr. McCollum.

Mr. MCCOLLUM. Thank you, Mr. Chairman. I yield my time to Mr. Lazio.

Mr. LAZIO. Thank you very much.

Mr. Sloan, how are you?

Mr. SLOAN. Fine, thanks.

Mr. LAZIO. Great to see a contemporary who has enjoyed such a fine career in the law. Hope you enjoy practicing as much as I did.

I want to focus on the event of the 29th, the particular discussion with Ms. Hanson, where you received the initial information with respect to the referral.

At that time, did she indicate, and I would ask that you think carefully about this, whether there might be press inquiries or whether there were press inquiries?

Mr. SLOAN. My recollection is that she said there might be press inquiries.

Mr. LAZIO. And she didn't mention any specifics with respect to that because it was entirely perspective; is that true?

Mr. SLOAN. I don't recall her mentioning any specifics and just as came out in the answer to Mr. McCandless, of course, there was a brief conversation between Mr. Nussbaum and Ms. Hanson before I entered the room.

Mr. LAZIO. I understand that. Is it also true that she placed the idea of press inquiries in the context of—that there would be inquiries if the information got leaked?

Mr. SLOAN. My recollection is that she said there might be press inquiries about this, an implication would be if there were leaks. I don't recall, as I am sitting here today, her using that word, but she may well have, but that would have been——

Mr. LAZIO. That would have been consistent with what you believed she was saying?

Mr. SLOAN. Yes, that would have been consistent.

Mr. LAZIO. The next day you spoke to Miss Hanson again?

Mr. SLOAN. That is correct.

Mr. LAZIO. With respect to the same subject?

Mr. SLOAN. Just in the interest of completeness, the only other thing I remember that Ms. Hanson said at the September 29 con-

versation, which was that she mentioned that she thought that Roger Altman had sent some materials to Mr. Nussbaum previously on this matter, and I wanted to make sure to include that.

Mr. LAZIO. Great. Let me get back to that if I have time. You took notes of that conversation that you had the following day on the 30th with Miss Hanson?

Mr. SLOAN. That is correct.

Mr. LAZIO. In those notes which you drafted in some detail, Miss Hanson told you that there was an RTC criminal referral naming as potential targets or subjects, Jim Guy Tucker, the Clinton gubernatorial campaign, and Senator Fulbright; is that true?

Mr. SLOAN. Mr. Lazio, I need to explain a little bit about my recollection and my notes. My——

Mr. LAZIO. Just for the sake of time, if you could be as concise as possible.

Mr. SLOAN. I will try to.

Mr. LAZIO. Thank you.

Mr. SLOAN. My independent recollection is that in the telephone conversations that I had with Jean Hanson after the September 29 meeting, the occasion of the calls was press inquiries and she described some press inquiries, and I remember a couple of specifics about the press inquiries, and I remember one other detail.

Mr. LAZIO. What were the specifics of the press inquiries that she mention in that conversation?

Mr. SLOAN. This is my independent recollection, which can't separate the September 30 and the October 7 conversations, but I recall her mentioning the names Sue Schmidt, Jeff Gerth, I remember a couple of questions from Sue Schmidt that are reflected in my October 7 notes.

Mr. LAZIO. Let me just ask you because I have a little bit of time, if I can, your memorandum of that conversation on the 30th was in considerably more detail than that which she had mentioned the press had.

Mr. SLOAN. My notes of that conversation contain additional detail, and that is the point that I wanted to clarify is that I don't have an independent recollection of those additional details. They are in my notes. I have no reason to question them, but I think it is just important to make that distinction so that I can be as accurate as I can in my testimony.

Mr. LAZIO. Again, just to clarify that, your notes had more detail than the purported press inquiries that Miss Hanson was conveying to you later on?

Mr. SLOAN. My notes have more detail. They are consistent with press inquiries, but they have more detail than what I have related is my independent recollection.

Mr. LAZIO. Later on you briefed Mr. Lindsey about this on October 7, which you memorialized also; is that correct?

Mr. SLOAN. Well, there was another telephone conversation on October 7, and my recollection is that I talked to Mr. Lindsey both after the September 30 conversation and after the October 7 conversation.

Yesterday, for the first time I had an opportunity to review Mr. Lindsey's notes. They were in the package of materials released by Mr. Leach, and looking at those notes there are materials, there

are references that correspond both to the September 30 conversation and the October 7 conversation intermingled in that conversation.

Mr. LAZIO. Did you mention Jim Guy Tucker in that conversation?

The CHAIRMAN. The time of the gentleman has expired. Did the witness have a further statement to make?

Mr. SLOAN. Mr. Lindsey's notes reflect a reference to Jim Guy Tucker, I believe, in that conversation.

Mr. LAZIO. Is that specifically your understanding?

The CHAIRMAN. The time of the gentleman has expired.

The Chair will recognize Mr. LaFalce.

Mr. LAFALCE. Thank you very much, Mr. Chairman. Let me follow up on some of the questions Mr. Lazio was asking, but turn my attention to Mr. Lindsey. Mr. Lindsey, how and when did you first learn about the criminal referrals being prepared by the RTC in the matter of Madison Guaranty?

Mr. LINDSEY. I believe that Mr. Cliff Sloan at some point, either in late September or early October, came to me and indicated to me that there had been referrals which mentioned the Clintons.

Mr. LAFALCE. Right, he mentioned the Clintons as possible witnesses; is that correct?

Mr. LINDSEY. I am not sure I even understood the word "witness" at that point. I think he simply indicated that it mentioned the Clintons, but made it clear to me they were not targets or subjects of the referrals.

Mr. LAFALCE. Of course, you are a senior advisor to the President and you are from the State of Arkansas and you knew Mr. Clinton for approximately 25 years?

Mr. LINDSEY. That is correct.

Mr. LAFALCE. It would be my assumption if I were in your position and were in conversation with the President on almost a daily basis that I would rather quickly in one of my conversations with the President mention this fact to him.

Mr. LINDSEY. Well, I did not mention it to him immediately. Several days later we were traveling to California, I believe, on October 4 and 5, and I had a telephone conversation with Jim Lyons, who is an attorney in Denver, Colorado, who had been involved in our campaign, and is involved with the Lyons report, and Mr. Lyons indicated to me that he had received a press inquiry, at least one, maybe two, and that another lawyer involved in the 1992 campaign had also received a press inquiry, and that the press was aware that there were criminal referrals.

Shortly after that meeting in a conversation with the President, I informed him that it was my understanding that there were criminal referrals which mentioned the Clintons, that there were press inquiries about those referrals, I probably mentioned that I had spoken to Jim Lyons, and I indicated to him that my understanding was that the Clintons were not subjects or targets of the referrals, but that the mention was incidental.

Mr. LAFALCE. This was probably on or about October 4; is that correct?

Mr. LINDSEY. I believe 4th or 5th, yes, sir.

Mr. LAFALCE. In any event, it was prior to the meeting on October 6 that the President had with the approximately four or five others, including the Governor of Arkansas at the time, Jim Guy Tucker?

Mr. LINDSEY. It was prior to the meeting with Governor Tucker, that is correct.

Mr. LAFALCE. Now, as of that time or up until this time, have you ever seen a copy of these criminal referrals?

Mr. LINDSEY. No, sir.

Mr. LAFALCE. When you learned that the President was mentioned as a possible witness or at least mentioned, but not as a target at all, did you also learn that the present Governor of Arkansas, Mr. Tucker, was mentioned within the referrals?

Mr. LINDSEY. I do not believe I learned that in the same conversation. My notes, which are undated, but if you compare them to Mr. Sloan's notes would reflect that they were made sometime after October 7, either October 7 or October 8, makes reference to Jim Guy Tucker.

I believe my recollection is that that was the first time I was aware that Jim Guy Tucker was mentioned in the referrals.

Mr. LAFALCE. In connection with your knowledge of the criminal referrals with respect to Madison Guaranty, generally what actions did you take, what questions did you ask, and what instructions, if any, did you give to any other White House staff members or individuals within the executive branch of government or RTC?

Mr. LINDSEY. I may have asked Mr. Sloan if he heard additional press inquiries to let me know. Beyond that, I took no action and instructed no one to do anything.

Mr. LAFALCE. Did you make any recommendations to the President?

Mr. LINDSEY. No.

Mr. LAFALCE. You also attended a meeting on October 14 with Treasury officials. What was the purpose of that meeting?

Mr. LINDSEY. The purpose of that meeting was that Mr. DeVore had apparently received a call the day before from Jeff Gerth of the *New York Times*. Mr. Gerth was aware of the criminal referrals. He indicated, I understand, to Mr. DeVore that one of the referrals involved four checks, cashiers checks, to the Clinton for Governor Campaign or made out to Governor Clinton; that he believed that the referrals had been sent to Washington; and that he wanted to know who had endorsed the four checks. The purpose of the meeting was, as I understood it, to decide how to respond to Mr. Gerth, if at all.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAFALCE. I thank the gentleman.

The CHAIRMAN. Mrs. Roukema.

Mrs. ROUKEMA. I yield to Mr. Ridge.

Mr. RIDGE. I thank the gentlelady. I want to express my thanks to the panelists for your patience with us as well.

Mr. Sloan, if I might just pick up on questions of my colleague. First of all, I am just really curious through this entire episode, is there any official or unofficial guidance as to whether each and every one of you make written notes, type a memorandum or at

any time memorialize a particular event that happens during the course of your daily work or routine?

Mr. Sloan, could you answer that?

Mr. SLOAN. I am not aware of such official guidance.

Mr. RIDGE. I was just kind of curious what about the information that you wanted to share with Mr. Lindsey in your memo dated October 7, 1993, was it a gravity or a sensitivity that led you to just type a memo for your own file, I was just kind of curious about that.

Mr. SLOAN. You are talking about the October 7 memo? That is actually easily explained. Mr. Lindsey, generally, it is fairly easy to poke your head into his office, and although he is very busy, that is how one does it.

For some reason on that day, Mr. Lindsey's secretary said he was especially busy and any requests for his time should be put in writing, and so I just put it in writing as she had requested. That is the only time in my experience when Mr. Lindsey's secretary has requested that. That is the entire reason for that memo.

Mr. RIDGE. I can certainly understand and appreciate that.

With regard to that October 7 memo again, you mentioned in the memo that you had discussed a subject with Mr. Lindsey one night last week and you wanted to give him some additional information. I presume it is obviously about Whitewater. What is it, if you have an independent recollection, what additional information did you want to tell him that necessitated your getting caught up with him and leaving him a memo; do you recall?

Mr. SLOAN. To the best of my recollection, it was that there was an additional telephone call from Jean Hanson reporting additional press inquiries.

Mr. RIDGE. OK, appreciate that. It is my understanding that on December 30 you spoke with Mr. Ludwig who was at that Renaissance Weekend at Hilton Head; is that correct?

Mr. SLOAN. That is correct.

Mr. RIDGE. It is also my understanding that Mr. Ludwig at some point after that called the White House counsel's office concerning the Madison Guaranty matter——

Mr. SLOAN. Well——

Mr. RIDGE. Concerning Whitewater.

Mr. SLOAN. At some point after his conversation with me?

Mr. RIDGE. Yes.

Mr. SLOAN. Called the White House counsel? I am not aware of that until the last few days in the wake of the release of Mr. Ludwig's memo. I saw some reference for the first time that he had called Mr. Kennedy in the White House counsel's office, but other than that, I am not aware of a telephone call to the White House counsel's office beyond the one—oh, and I guess I should add, Mr. Nussbaum has made some reference to a subsequent telephone conversation with Mr. Ludwig.

Mr. RIDGE. But it is your recollection it was only one point of contact between yourself and Mr. Ludwig?

Mr. SLOAN. Well, actually, there were two because when I called him back, I got a message that he had called, I called him back, he was on the other line, and he said he would call me back, which he did, so that counts as two, I guess.

Mr. RIDGE. I am just looking for one when you both were on opposite ends of the line talking to each other, it only occurred on one occasion?

Mr. SLOAN. Two in the way that I just described.

Mr. RIDGE. OK. When you talked to Mr. Ludwig, did he indicate his interest or desire to revisit the issue of Whitewater with the President?

Mr. SLOAN. What Mr. Ludwig said was, to the best of my recollection, that he had seen the President, that the President had mentioned the Madison matter that was in the press or in the papers, and that Mr. Ludwig wanted some information, newspapers, articles, or things of that sort so that he could be prepared for a further conversation with the President.

I don't recall as I sit here whether he said in case he had a further conversation or for a further conversation, but that is what he was asking for, and I believe that he also mentioned that it was difficult to reach people at Treasury because it was a holiday, the day before New Year's Eve, so that was the sum of what Mr. Ludwig said to me.

Mr. RIDGE. Did you honor his request for additional information and if you did, in what form did you relay that additional information to him?

Mr. SLOAN. I told Mr. Ludwig that I or somebody else in the office would get back to him. I believe that I also mentioned to him that Joel Klein, the deputy counsel, was at Renaissance Weekend, but I said that I, or somebody else in the office, would get back to him.

Mr. RIDGE. And——

The CHAIRMAN. The time of the gentleman has expired.

Mr. RIDGE. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Schumer.

Mr. SCHUMER. Thank you, Mr. Chairman.

First, I would like to tell the witnesses that I have been on this committee now 14 years, we see a lot of witnesses, a lot of different ways. You usually sort of get an inkling when people don't want to talk about something, have something to hide, and so forth.

Your testimony to the person was forthright, right to the point, concise, without any unnecessary embellishment. I think it was in that way very impressive. I would like to ask each of you some simple questions, try to answer them, if you can, yes or no, and—well, here they are: Did any of you do anything to influence or seek to influence the Whitewater investigation by the RTC.

Mr. Sloan.

Mr. SLOAN. No.

Mr. SCHUMER. Mr. Eggleston.

Mr. EGGLESTON. No.

Mr. SCHUMER. Mr. Lindsey.

Mr. LINDSEY. No, sir.

Mr. SCHUMER. Mr. Stephanopoulos.

Mr. STEPHANOPOULOS. No, sir.

Mr. SCHUMER. Miss Williams.

Ms. WILLIAMS. No, sir.

Mr. SCHUMER. Mr. McLarty.

Mr. MCLARTY. Absolutely not.

Mr. SCHUMER. Mr. Ickes.
Mr. ICKES. No.
Mr. SCHUMER. Mr. Podesta.
Mr. PODESTA. No.
Mr. SCHUMER. Mr. Gearan.
Mr. GEARAN. No, sir.
Mr. SCHUMER. Ms. Caputo.
Ms. CAPUTO. No, sir.
Mr. SCHUMER. Has the investigation been modified in any way because of the actions of yourself or anyone else in the White House?
Mr. Sloan.
Mr. SLOAN. No.
Mr. SCHUMER. Mr. Eggleston.
Mr. EGGLESTON. No, sir.
Mr. SCHUMER. Mr. Lindsey.
Mr. LINDSEY. No, sir.
Mr. SCHUMER. Mr. Stephanopoulos.
Mr. STEPHANOPOULOS. No.
Mr. SCHUMER. Miss Williams.
Ms. WILLIAMS. No, sir.
Mr. SCHUMER. Mr. McLarty.
Mr. MCLARTY. No, sir.
Mr. SCHUMER. Mr. Ickes.
Mr. ICKES. Not that I know of.
Mr. SCHUMER. Mr. Podesta.
Mr. PODESTA. No.
Mr. SCHUMER. Mr. Gearan.
Mr. GEARAN. No, sir.
Mr. SCHUMER. Ms. Caputo.
Ms. CAPUTO. No, sir.
Mr. SCHUMER. I have no further questions, Mr. Chairman.
The CHAIRMAN. Thank the gentleman.
Mr. Bereuter.
Mr. BEREUTER. Thank you, Mr. Chairman.
I think Mr. Ickes gave the right answer, he said not to my knowledge. I yield my time to Mr. McCollum.
Mr. MCCOLLUM. Thank you very much, Mr. Bereuter, for yielding.
Mr. Eggleston, you and I have known each other for a while, it goes back to Iran-Contra days, it is good to see you again. I respected you in those participated hearings and I am glad to see you here today, although it is not under the most pleasant of circumstances.
Mr. EGGLESTON. That is true, sir, at that time I was sitting up where you are sitting.
Mr. MCCOLLUM. A little different setting from this today. It is my understanding that you first came aboard in September 1993 when all of this began, you said that in your testimony, one of the first things that happened I guess is that you were informed by Mr. Sloan about the meeting of the 29th, I don't believe you were present there, but you were informed by him of what went on when Miss Hanson came over from the Treasury Department and made her comments that evening to Mr. Nussbaum; is that correct?

Mr. EGGLESTON. Well, Mr. McCollum, let me say at the beginning of this phase between the 29th, say, and October 14 of a meeting I did attend, I was pretty much on the periphery of this. My recollection of much of what I learned at that time is pretty vague. I remember pretty clearly the meeting on October 14, a meeting I did attend, but the other information I was getting, I was getting secondhand or even thirdhand, so——

Mr. MCCOLLUM. But you were aware of this before the 14th, you had gotten information either from Mr. Sloan or some other source, you were aware of the criminal referral before the 14th, right?

Mr. EGGLESTON. Yes, sir.

Mr. MCCOLLUM. In fact, you were participating, if I understand it correctly from the interview notes we have with you, with Mr. Sloan in some research because you were both concerned perhaps about the legality of the handling of this matter and what you could do with it; is that not correct?

Mr. EGGLESTON. That is correct. I regard that as one of my jobs, and that is one of the things that I did.

Mr. MCCOLLUM. In that process in that research looking into this matter, you were looking to determine not only whether or not this was something which was legal to have in your possession, but were you looking any further as to what might be the legality of providing this information to someone else, to a third party, what you had to put in your hands on the criminal referral or what Mr. Sloan had in his hands?

Mr. EGGLESTON. Mr. McCollum, let me tell you the way I thought about the problem back then. Hopefully, that will answer your question. I generally believed we had gotten the information that we had gotten for an official purpose and that we were entitled to have that information.

My understanding at the time was that it was press-driven, that regrettably there are massive leaks out of the RTC and there were going to be, and I think by the time that I learned after September 30 there had already been leaks out of the RTC on this matter, and my involvement and my concern was that this was a press-driven matter and that we had this information in an official capacity.

What I was thinking about and what I was concerned about was that I remembered, because I had done some work on this in private practice, that FIRREA had some unusual provisions that dealt with investigations. I knew the Internal Revenue Code, for example, has a provision about nondisclosure of tax information. I was looking to see whether there was anything out there that would interfere with what I thought was an otherwise perfectly appropriate disclosure of information to us for official purposes.

Mr. MCCOLLUM. What about the legality of the disclosure of that information to some outside person from you to a party perhaps like Mr. Lindsey who wasn't in the counsel's office or even for that matter disclosure of information on the criminal referral outside the White House to a third party; did you research that?

Mr. EGGLESTON. I researched the issue. I did not make a distinction between whether it was appropriate for me, one member of the White House staff, to receive it and not some other member of the White House staff. None of the research that I looked at made any distinction between receipt by counsel or receipt by other member.

Mr. MCCOLLUM. You are not doing this research to determine if you can have press leaks out there; you are doing the research to determine whether it is legal, what you are doing, and as I understand, let me ask you one last question as we get down to this.

In this process of doing this research, did you come to the conclusion that it was appropriate or not appropriate for Mr. Lindsey or anyone else to inform the President—do you share Mr. Nussbaum's situation or his concern? You see, I have a problem, a deep problem with the fact that there was apparently no appreciation or understanding on the part of certain people, including Mr. Nussbaum, with the problem of letting the President know about the criminal referral or letting the possibility of Mr. Tucker, Governor Tucker contacts occur.

Did you have a problem with that? Did you think about that problem? Did it occur to you that there might be a problem with letting a criminal referral piece of information go out to somebody, even the President of the United States, who wasn't in your counsel's office when you were doing this legal research?

Mr. EGGLESTON. Mr. McCollum, I thought about that issue and I concluded that it was perfectly appropriate. The information that we had gotten was that there were RTC, this was my understanding, there were leaks from the RTC, that members of the press had begun to inquire about this matter and that we were going to start hearing about this matter.

Mr. MCCOLLUM. Were you aware——

Mr. EGGLESTON. Let me just finish, if I might. It seemed to me perfectly appropriate under those circumstances for the President of the United States, who gets asked these questions all the time and for Mr. Lindsey, who was handling the press issues at the time, to be notified of that. This was a press-driven issue, as far as I was concerned, and I thought——

Mr. MCCOLLUM. Were you aware of the Freedom of Information Act would make it a crime to release this information to a third party?

The CHAIRMAN. The time of the gentleman has expired. We have about 7 minutes, so I think we ought to recess for the vote.

[Recess.]

The CHAIRMAN. The committee will come to order. I believe Mr. Kennedy was next.

Mr. KENNEDY. Thank you, Mr. Chairman.

Mr. Chairman, I would like to ask the witnesses a couple of questions, and I would like them to reply starting perhaps at Mr. Sloan's end of the table and maybe finishing up with Miss Caputo or Mr. Gearan.

First, did any of you ever take any action that you failed to describe in your testimony to slow or manipulate the progress of the Madison case?

Mr. SLOAN. No.

Mr. EGGLESTON. No, sir.

Mr. LINDSEY. No, sir.

Mr. STEPHANOPOULOS. No, sir.

Ms. WILLIAMS. No, sir.

Mr. MCLARTY. No, sir.

Mr. ICKES. No.

Mr. PODESTA. No.
Mr. GEARAN. No, sir.
Ms. CAPUTO. No, sir.
Mr. KENNEDY. Second, did any of you in speaking with the President or the First Lady about the case ever say anything to them or hear them say anything to you about exerting influence over the Madison case?
Mr. SLOAN. No, sir.
Mr. EGGLESTON. No, sir.
Mr. LINDSEY. No.
Mr. STEPHANOPOULOS. No, sir.
Ms. WILLIAMS. No, sir.
Mr. MCLARTY. No.
Mr. ICKES. Absolutely not.
Mr. PODESTA. No, sir.
Mr. GEARAN. No, sir.
Ms. CAPUTO. No, sir.
Mr. KENNEDY. Third, did you do anything illegal or unethical?
Mr. SLOAN. No, sir.
Mr. EGGLESTON. No, sir.
Mr. LINDSEY. No, sir.
Mr. STEPHANOPOULOS. No, sir.
Ms. WILLIAMS. No, sir.
Mr. MCLARTY. No, sir.
Mr. ICKES. No.
Mr. PODESTA. No.
Mr. GEARAN. No.
Ms. CAPUTO. No.
Mr. KENNEDY. You know, I think it is time, Mr. Chairman, that we ought to take a moment to review where we are in this hearing. For months the Republicans have alleged in the most harsh and partisan terms that the people in the White House from the President on down have engaged in all sorts of misconduct, from misconduct in connection with the Madison failure to illegal coverups and conspiracies, to ethical violations, to even, in Mr. Leach's words, the arrogance born of the positions of power, and yet after months of allegations, after reviewing all relevant administration documents, and after interviewing all relevant witnesses, the Republicans have failed to produce any proof that any administration official committed any illegal or unethical act.
Mr. MCCANDLESS. Mr. Chairman, point of order. Is this relevant?
The CHAIRMAN. Well, the Chair will deplore some partisan—however, the gentleman is summing up his estimation about where the committee is at this point. The committee still hasn't finished its work.
Mr. MCCANDLESS. Mr. Chairman, he refers to the other party quite frequently. Is that part of the summation?
Mr. KENNEDY. You referred to our party quite frequently.
Mr. MCCANDLESS. I never called it by name, I said my colleagues.
Mr. KENNEDY. I am sorry for the lack of diplomacy.
The CHAIRMAN. Let's just try to do our best to reduce harsh partisan lines to a minimum. It doesn't serve any purpose, but I see

no violation of propriety if the gentleman wants to sum up his opinion as to where we are at this juncture in this hearing.

Mr. KENNEDY. Thank you, Mr. Chairman. I hope I didn't lose any time in that intervening distraction.

The CHAIRMAN. Well, since I didn't rule against you, the clock hasn't run against you.

Mr. KENNEDY. Thank you very much, Mr. Chairman.

Indeed the most incriminating evidence brought forward today is that Mr. Nussbaum received not one, but two faxes of newspaper articles from Mr. Altman. That evidence proves only one thing, that these honorable people have been subject to a series of baseless partisan attacks, the viciousness of which has rarely been seen in Washington, DC before.

The fact is that the behavior of these witnesses has been gone over with a fine tooth comb, and I don't believe that there is a single hair caught in those bristles, and in fact looking at these witnesses, most of them have most of their hair left, although I can see one or two that don't.

I think that the Republican strategy is here before us now in full view, it is not to get at the truth, but it is to protect the—and it is not to protect the democratic process, it is to paralyze the Presidency with baseless and mean-spirited accusations. They are trying to tie up the work of this President on issues of crime and health care by tying up his top advisers in a made-for-TV fishing expedition. Shame on them.

Shame on them. They have manufactured a disgrace that is not providing a better democracy. It's nothing more than a Tom Clancy novel with a boring ending.

Mr. Chairman, I yield back the balance of my time.

Mr. KNOLLENBERG. Can I renew the objection on this side of the aisle?

The CHAIRMAN. The gentleman yields back the balance of his time, and I'll say that since the outset of these hearings, we've had similar summations by members.

Let me point out that it's not—what was the thing to say—it's not over until it's all over, and it isn't all over yet. We still have members that have the opportunity to, in their period of time, to bring out any factors that may not yet have been brought out. But at this point the gentleman has yielded back his time.

Mr. BACHUS OF ALABAMA. Mr. Chairman, I personally don't have any objections to what he said, because he is always having tantrums like that, and I don't think this was any different.

The CHAIRMAN. Well, I will ask the gentleman, that's not——

Mr. KENNEDY. I appreciate the compliment, Mr. Bachus.

The CHAIRMAN. Well, let's try to avoid any ad hominem or personal remarks, evaluations. I think the members can judge for themselves.

The next gentleman is Mr. Ridge, I believe.

Mr. RIDGE. Thank you, Mr. Chairman. I yield my time to Mr. Nussle.

Mr. NUSSLE. I thank the gentleman for yielding.

First of all, I'd like to go back to Mr. Sloan for just one moment and ask you, when Mr. Ludwig called you, isn't it true that he did not in fact seek a legal opinion on whether or not he could speak

to the President? He was looking for information about this particular case. That's, basically, what he was looking for, background, so he could be in a better position to talk to the President. Isn't that correct?

Mr. SLOAN. Public information, that's my recollection.

Mr. NUSSLE. OK.

Next, I'd like to turn to Mr. Eggleston, and first of all, I'd like to follow up on my colleague's question you didn't quite get in.

When you were doing your legal research involving this particular matter, did you take a look at the Privacy Act and look to see if there was anything illegal or criminal in disclosing information that was in the hands of the RTC, information involving criminal referrals?

Mr. EGGLESTON. I think that I did not look specifically at the Privacy Act. And the reason that I did not is that it was my understanding that the—that for two things, really. One, the limited amount of information that I thought we got was for an official purpose, and I thought that was appropriate.

As to all the details that we were getting, it was my understanding that they were already in the hands of the press and what we were getting from the Treasury—and this is most specific actually, I remember quite vividly at the October 14 meeting Mr. DeVore saying that Mr. Gerth actually had the face of the checks, they had obviously gotten out of some RTC file, not from us. And, apparently, his source had given him the face of the checks, but had neglected to give him the backs of the checks, so he was going to the Treasury Department to see if he could get Mr. DeVore to confirm who had endorsed the backs of the checks.

My understanding is that the details that we were getting had been—were press provided, and that that's the information we were getting.

I did not believe that the Privacy Act would cover information that the Treasury Department was providing to us that it obtained as a result of talking to members of the press. Now, I didn't look at the Privacy Act for that. Maybe I made too broad a judgment, but my view is the Privacy Act would not have covered.

Mr. NUSSLE. That's interesting to me. Unless I'm mistaken about what records have been disclosed, you didn't put any of this in writing. Your legal research was pretty much on your own perusal. You didn't write any of this down? You didn't prepare a memorandum or a brief?

Mr. EGGLESTON. That's correct. I did not.

Mr. NUSSLE. And the other thing that's interesting about this is that Mr. Nussbaum and Mr. Cutler immediately came to the conclusion that if it was press leaks, if it was press information, we don't even have to crack a book.

And what's interesting about your testimony, not only here today but also your witness interviews, is that a bell or a whistle went off in your head to say, I think I'd better take one more look. And what I'm suggesting is—is that that had nothing to do with press. Because quite honestly as we all know, not only does the RTC have press leaks, but the White House has press leaks, and sometimes manufactured for that—for very specific reasons.

So it was not just the press leaks from the RTC. But what I'm suggesting is—is that you knew there was something else in there that maybe you didn't need to know, shouldn't have known, or was improper to pass on; isn't that correct?

Mr. EGGLESTON. Well, Mr. Nussle, that is not what I was thinking. What I think I was doing, or what I was trying to do was to be a good staff person and protect my President, and make sure—go the extra mile, put on belt and suspenders, whatever cliche seems to fit—to make sure that there was nothing out there.

As I said before, what I was concerned about is that there might be one of these specific provisions, because I remember there were some strange ones in the FIRREA statute, that dealt with these kinds of investigations. And frankly, the reason I really undertook this, I wanted to make sure that we were not, through oversight, not taking care of something. I regarded that as a part of my job as an associate counsel to the President.

Mr. NUSSLE. OK. And I grant that.

What—I guess the thing that next intrigues me about your testimony, is that—and your witness interview; and I have two final questions—I'm almost out of time—is that you attended the meetings. You attended and were assigned to brief Mr. Altman or prepare the questions and get him ready for his testimony in the Senate. You attended the Senate briefing. You were working with Mr. Podesta about exactly what went on.

Immediately upon listening to the testimony at the Senate Banking hearing, you—a bell and whistle went off; it wasn't fully complete. You went back. These are my final two questions.

Why wasn't the totality of the White House contacts part of the briefing that you worked up for Mr. Altman, one; and two, why did it take so long, because you were there and knew most about this information? Why did it take so long for the followup so that Mr. Altman could correctly answer and correct the record of his testimony on February 24 at the Banking Committee?

Mr. EGGLESTON. Let me explain that to you.

I had not been—first, let me talk to you about the day or two before Mr. Altman's testimony. I had not been involved, as your question might have suggested, in briefing or getting Mr. Altman ready. I made a phone call to Ms. Hanson because I wanted to make sure that he—that Mr. Altman would be prepared to answer that question. I assumed that someone at that Senate hearing was going to ask him whether he had met with the White House on this issue.

I knew that we had had the meeting on February 2, because I attended it. I wanted to make sure that he was prepared to answer fully and completely about that.

Mr. NUSSLE. But you forgot about all the other meetings that you attended?

The CHAIRMAN. The time of the gentleman has expired.

Mr. NUSSLE. I'll let him finish. I just wanted to get him to respond to that particularly. He missed all those meetings.

The CHAIRMAN. By the time the gentleman got to asking the two questions, his time had expired, but I didn't interrupt him, in order for him to complete his question and have the witness answer. So I think we ought to let the witness answer.

Mr. EGGLESTON. Thank you, Mr. Chairman.

The only meeting that I had attended in the fall was the October 14 meeting. That, to me, was not a meeting where we were informed about the criminal referral. That was a specific meeting where Mr. DeVore came over to tell us about press questions that he had gotten from Mr. Jeff Gerth of the *New York Times* and Sue Schmidt of the *Washington Post*. That was my view of what had happened.

Mr. Sloan actually had been involved throughout. And so after Mr. Altman's testimony, I focused on the part of this that I was most heavily involved in, that is the February 2 meeting. I would say that Mr. Sloan also did excellent staff work, because after his—after Mr. Altman's testimony on the 24th, Mr. Sloan, who had been much more heavily involved in the late September, early October period, was alerted to the fact that maybe that was a problem as well, and he brought that to the attention of Mr. Podesta and others; and between the two of us, I think we brought the major issues forward. I was more concerned about one area, Mr. Sloan was more concerned about the other, but when the day is done, both of the issues were brought to the attention, and Mr. Podesta made the phone call that he did.

Thank you, sir.

The CHAIRMAN. Mr. Kanjorski.

Mr. KANJORSKI. Thank you, Mr. Chairman. Mr. Chairman, could the record show that Ms. Caputo is a constituent of mine, that her great-grandfather, her grandfather, her father, have been members of the second oldest bar association in the United States for more than 100 years. And I have had the pleasure of knowing that young lady since she was born.

I find it incredible that she should have been brought here today, and Ms. Caputo, I am going to direct some questions to you.

Is it my understanding that you have been put through the embarrassment and the expense of tens of thousands of dollars because you saw the responsibility of returning a single telephone call on an inquiry?

Ms. CAPUTO. Yes.

Mr. KANJORSKI. And there is no way in the world that you could regain that personal financial loss that you suffered, the embarrassment to your reputation, by just doing your job; is that correct?

Ms. CAPUTO. That's correct, to my knowledge.

Mr. KANJORSKI. Now, is it all right it if I call you Lisa?

Ms. CAPUTO. Sure.

Mr. KANJORSKI. Lisa, in your experience in this whole affair, have you ever seen anyone that's at this table or anyone at the White House perform any illegal, improper, or unethical act with regard to the Whitewater affair?

Ms. CAPUTO. Absolutely not, Congressman.

Mr. KANJORSKI. Thank you very much, Lisa.

Mr. Gearan, you know, it's funny. I listened to the testimony earlier today of Mr. Nussbaum, and he talked about the memorandum that he sent around, and it seemed to me that you followed that memorandum. Is that correct?

Mr. GEARAN. Sir, in the instance of the meeting that I attended on October 14, I can't actually remember the circumstances of the

convocation of the meeting. But I'm certainly aware of the guidelines in the White House that provide for the consultation with the White House counsel in matters of this nature.

Mr. KANJORSKI. And you follow those guidelines; is that correct?

Mr. GEARAN. As I said, Congressman, I don't recall actually setting up this meeting, as Mr. Nussbaum has recalled.

Mr. KANJORSKI. As I understand it, there are two single notes of the meeting, Mr. Lindsey's memo and your memo. And they were put together separately for purposes of recordation; is that correct?

Did you not put your memo of the notes of the meeting together, when Mr. Lindsey wrote his? Did you?

Mr. GEARAN. No, sir. My notes were placed in my file. Mr. Lindsey's memorandum, I believe, was dated a week after the actual meeting.

Mr. KANJORSKI. As I understand it, those notes reflect identically the same thing; is that correct?

Mr. GEARAN. Fundamentally, sir.

Mr. KANJORSKI. As to what the meeting was about.

Mr. GEARAN. Yes, all of the information at the meeting, the portion of the meeting that I attended, was information that was relayed by Mr. DeVore, information given to him by two reporters, one from the *Washington Post* and the other from the *New York Times*.

Mr. KANJORSKI. So that if the notes were made independently—and nothing tends not to confirm that fact, and your testimony so indicates that they were made independently—then the fact of the matter is that that is evidence in itself that if you take the content of what the notes reflect, that the meeting was only in preparation of press inquiries. Is that correct?

Mr. GEARAN. Absolutely.

Mr. KANJORSKI. Have you experienced or witnessed anyone in the White House or at that table that committed any illegal, unethical, or improper act in regard to Whitewater or any of this affair?

Mr. GEARAN. No, sir.

Mr. KANJORSKI. I assume you also have been required to go to the expense of hiring private counsel?

Mr. GEARAN. I have.

Mr. KANJORSKI. Mr. Chairman, I guess I don't want to take a lot of time. I know how pressing it's been on that table. I have admiration for that entire table, because I know many of them and I know their excellent minds and their willingness to work hard. I'm going to throw one little question at Mr. Stephanopoulos, though.

Mr. Stephanopoulos, if the RTC had retained Michael Dukakis to civilly prosecute the Silverado case and the involvement of Neil Bush, do you think Marlin Fitzwater would have gotten upset like you did?

Mr. STEPHANOPOULOS. Probably, sir.

Mr. KANJORSKI. Mr. Stephanopoulos, regardless of what anybody says about being annoyed, when I read that in the paper, I was annoyed, too; and if you find somebody in the RTC that's foolish enough to make an appointment like that without thinking of the political ramifications or the appearances of those ramifications, you let me know, too. Because I think it's a foolish move and it has nothing to detract from your character or ability to handle things.

It just shows how, sometimes, how stupid bureaucracy can be; and all of us pay that terrible price.

Thank you very much.

I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The gentleman yields back the balance of his time.

And Mr. Roth.

Mr. ROTH. Mr. Chairman, I yield my time to Mr. Bereuter.

Mr. BEREUTER. Thank you.

Mr. Ickes, I have a series of questions for you. If you could answer briefly, I would appreciate it.

Based on interviews and testimony, it appears that Mr. Altman called on you to set up the February 2, 1994 meeting with McLarty, and that at that meeting the topic of discussion was the pending civil enforcement action against Madison Guaranty that was under investigation by the RTC. And as I understand it, you invited Mr. Nussbaum when you learned that Jean Hanson, the general counsel of the Department of Treasury, would attend. Is that accurate?

Mr. ICKES. That is correct.

Mr. BEREUTER. Thank you. And during that meeting Mr. Altman, as I understand it, initiated a conversation that he was considering recusing himself from handling the Madison matter. But on February 3, he came to your office to tell you that he had decided against recusing himself. Is that accurate?

Mr. ICKES. It's the best of my recollection, Congressman, that he—I met him in the West Wing, not in my office, with a very brief conversation in which Mr. Altman informed me that he had decided against recusing himself.

Mr. BEREUTER. All right. And according to the statement you made during your interview on February 23, the date before Altman was to testify before the Senate Banking Committee, where the issue was very likely to be raised, Mr. Altman called you again to tell you that again he was considering recusing himself and wanted you to consider the issue and call him back with your opinion.

But Altman didn't recuse himself at the Senate hearing.

He, in fact, did call you with that message?

Mr. ICKES. It's the best of my recollection, Congressman, that the gist of his phone call was that he was going to testify before the Senate Banking Committee the next day, and he said that he was considering recusing himself or stepping down—I don't recall the exact phrase—wondered if I had any thoughts on it. Said he was going out to a meeting outside of his office, would be back sometime within 1 hour or 1½ hours, and asked me to give him a call. I did not. I called his—one of his aides, Josh Steiner, instead——

Mr. BEREUTER. Yes.

Mr. ICKES. And told him that it was entirely up to Mr. Altman whether or not he was going to recuse himself.

Mr. BEREUTER. Thank you.

Then the day after the hearing, on February 25, you were told that Altman announced his recusal and he made the announcement to Howell Raines in the *New York Times* during a telephone conversation where Raines apprised Altman that there was an up-

coming editorial in the *New York Times* about Madison that was going to be very tough. And Mr. Cutler has told us that the conversation between Altman and Raines was reported to the President.

And then, finally, I refer you to Josh Steiner's diary, where he writes, referring I guess to—I'm sure to the potential Altman recusal—quote, "At a fateful White House meeting with Nussbaum, Ickes, and Williams, the White House staff told Roger Altman that it was unacceptable. R.A. had gone to brief them on the impending statute of limitations deadline and also to tell him of his recusal decision. They reacted very negatively to the recusal and R.A. backed down the next day," end of quote.

Mr. Ickes, given the facts that I described to you about Mr. Altman's inability to make a decision to recuse himself, without requesting significant input from the White House, given the very disturbing entry from Mr. Steiner's diary, given your lawyer's opinion that it would have been better if the discussion which occurred on February 2 had never taken place, I have to express grave concerns that the White House in some very direct manner seemed to be putting pressure on Mr. Altman not to recuse himself, even though his lawyers advised him to recuse himself, and his boss, the Secretary of the Treasury, Lloyd Bentsen, encouraged him to recuse himself. I think he reached the right decision, because of the conflict of interest, but what about the pressure that seems to have been put on him, even though he was wavering back and forth?

Mr. ICKES. What's your exact question, Congressman?

Mr. BEREUTER. I am saying, do you believe that there was substantial pressure, as I do, put on him not to recuse himself?

Mr. ICKES. I don't think there was any pressure put on him, Congressman. It was left entirely up to him at the meeting on February 2 whether or not he was going to recuse himself. And that was made amply clear by everyone in the meeting.

Mr. BEREUTER. Didn't you——

Mr. ICKES. Best of my recollection.

Mr. BEREUTER. Didn't his erratic behavior in this respect in this decision bother you?

Mr. ICKES. I am sorry, I didn't—could you repeat it?

Mr. BEREUTER. Didn't the erratic decision back and forth on recusal create any concerns on your part?

Mr. ICKES. I don't know that there was a back and forth.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Mfume.

Mr. MFUME. Mr. Chairman, thank you very much.

Let me begin by associating myself with the remarks of Mr. Kanjorski with respect to Mr. Stephanopoulos and to say to Mr. Stephanopoulos that I think any of us, upon hearing that a pure partisan had been retained to oversee anything that was crying out for an unbiased, objective individual, we too, if we were honest, would have acted the same way.

And let me just say this: If we're honest, our reactions probably would have been much stronger than yours and in words a lot more choicer and dicier than the words you used. So I agree with Mr. Kanjorski, that that was a natural sort of reaction.

Mr. McLarty, I'd like to direct my questions to you. Many questions were asked on Tuesday to Mr. Cutler and then again this morning to Mr. Nussbaum for the purposes of reestablishing the record, and I will try to be succinct and hope that your answers might be also.

Can you tell the committee, is the President, or the First Lady, in your opinion, trying to hide anything at all?

Mr. MCLARTY. No, Congressman, they are not.

Mr. MFUME. And are you trying to hide anything at all from this committee?

Mr. MCLARTY. Absolutely not, Congressman. We want to be responsive with this committee.

Mr. MFUME. And do you know of any other members of the White House staff who might be trying to hide anything?

Mr. MCLARTY. No, Congressman, quite the contrary.

Mr. MFUME. And was it the President who, in fact, asked for the independent counsel to investigate all matters related to Whitewater?

Mr. MCLARTY. The President did request a special counsel.

Mr. MFUME. And, sir, has the President completely and fully cooperated with the independent counsel?

Mr. MCLARTY. He has made every effort to do so, yes, sir.

Mr. MFUME. And have you and other members of the White House staff fully cooperated with the independent counsel?

Mr. MCLARTY. We have tried to be very responsive with Mr. Fiske and his colleagues.

Mr. MFUME. And, sir, did the President or the First Lady at any time try to limit the scope of the independent counsel?

Mr. MCLARTY. No, not to my knowledge. They have not at all.

Mr. MFUME. And has the President or any member of his staff tried to influence in any way the independent counsel's investigation of various ethics reviews or contacts?

Mr. MCLARTY. I'm not aware of any, Congressman, at all.

Mr. MFUME. And, sir, is there anything the President hasn't done to get to the bottom of the contacts issue?

Mr. MCLARTY. No, I think quite the contrary.

Mr. MFUME. Mr. McLarty, I want to just thank you publicly for beginning as you did in the remarks that you gave us to open your testimony, for reminding this committee and indeed, the Nation, of the work of this administration when it comes to deficit reduction or health care or education or budget issues, the issue of crime, the issue of poverty, and to say that oftentimes in these sort of deliberations, which garner all the press attention and all the headlines, that we have a responsibility, I think, once we get beyond the hearings to refocus again on the needs of this country, the needs of people all over this Nation, who may or may not watch these hearings, but who certainly know when the television set goes off that many of the problems they have will be there.

These hearings won't house anybody, they won't clothe anybody, they won't feed anybody, they won't help a parent get a child through college. They won't solve the problems that the Nation faces at home or abroad. And I want to just personally thank all of you, and you, in particular, as the former Chief of Staff for the President, for granting unto this Nation the kind of service you

have provided under rather difficult situations and circumstances, and to say that I know that I speak on behalf of millions of Americans around this country who appreciate the work and the service that all of you have given to the country that we all love.

Mr. Chairman, I have no further questions and yield back the balance of my time.

The CHAIRMAN. The gentleman yields back the balance of his time.

The Chair will recognize Mr. McCandless.

Mr. MCCANDLESS. Thank you, Mr. Chairman. I yield to the gentleman from Minnesota, Mr. Grams.

Mr. GRAMS. Thank you very much for yielding.

Good evening, Mr. Ickes. I have a series of questions I would like to talk with you about. I only have a few minutes and a lot of questions, so again I would appreciate it if you keep to a simple yes or no whenever possible.

I'm curious about an apparent discrepancy between varying accounts that we have received from the administration regarding the call between you, Mr. Altman, and Mr. Stephanopoulos, regarding Mr. Altman's recusal.

Now, it was on February 25, 1994, the day Mr. Altman announced that he would recuse himself from Madison, relating issues during a telephone interview with the editorial page writer of the *New York Times*, that you were in Mr. Stephanopoulos' office at that time, were you not?

Mr. ICKES. I was.

Mr. GRAMS. By your account, Mr. Stephanopoulos was merely surprised at Mr. Altman's decision; is that correct?

Mr. ICKES. Mr. Stephanopoulos was surprised?

Mr. GRAMS. According to your account, you said he was surprised.

Mr. ICKES. Both of us were. Not by his decision, but by the way he had done it.

Mr. GRAMS. By your account, however, you said you were very surprised at Mr. Altman's recusal; is that correct?

Mr. ICKES. I was surprised.

Mr. GRAMS. Very surprised.

Did you voice any feelings about anger or frustration? Not about the recusal, maybe as you said, but maybe in the way he handled it.

Mr. ICKES. No. We were just, as I have said before, I was surprised, as was Mr. Stephanopoulos.

Mr. GRAMS. So you mean to tell me that you were, so to speak, blindsided by this type of decision, and you learned about it from the press, and you weren't angry at all? I kind of find this kind of hard to believe, that——

Mr. ICKES. As I said, Congressman, I was surprised, as was Mr. Stephanopoulos.

Mr. GRAMS. Now, this phone conversation, Josh Steiner writes in his diary that after Howell Raines from the *New York Times* called to say that they were going to write a brutal editorial, R.A., Roger Altman, decided to recuse himself. Harold and George then called to say that B.C., Bill Clinton, was furious.

Did you claim in your opening statement that this was not true? Is that correct?

Mr. ICKES. I had not spoken with the President about that. When I went into Mr. Stephanopoulos' office that afternoon, he told me about it; and we immediately decided to call Mr. Altman to confirm whether or not the information that Mr. Stephanopoulos had was accurate.

I had not spoken to the President. I had no way of knowing his state of mind. You'll have to ask Mr. Stephanopoulos.

Mr. GRAMS. In that phone call, did you invoke the name of the President, saying that he was furious or angry?

Mr. ICKES. I did not.

I had no idea what his mood was, because I hadn't spoken to him.

Mr. GRAMS. When you did speak to the President about it, what was his reaction?

Mr. ICKES. I can't recall when I spoke to the President. I did speak to the President at some point during a meeting that I had with him. I don't recall the time or the circumstance or where it was or who was there. I did not brief him on it; I merely gave him the information.

Mr. GRAMS. So you are saying then Mr. Steiner's comments were not accurate?

Mr. ICKES. Mr. Steiner will have to speak for himself. I can only speak for myself.

And in terms of how they characterize me or Mr. Stephanopoulos, they are inaccurate; and I do not think that he was part of any telephone conversation that I was party to.

Mr. GRAMS. So there's a real discrepancy, so it's—in my opinion, either you're wrong or he's wrong in that.

Mr. Chairman, I have a document, a copy of which I would like to have given to the witness. And, Mr. Ickes, would you please read word for word for me and for the committee what it says, the document, on those four lines, starting with "to," exactly what the word says or what the—above the dotted line, what it says?

Mr. ICKES. You want me to read everything above the dotted line?

Mr. GRAMS. Just to, who is it to, the memorandum?

Mr. ICKES. To the First Lady.

Mr. GRAMS. From?

Mr. ICKES. From Harold Ickes.

Mr. GRAMS. And the date was?

Mr. ICKES. March 1, 1994.

Mr. GRAMS. The reason for the memorandum was?

Mr. ICKES. The reason for the memorandum?

Mr. GRAMS. Resolution Trust Corporation.

Mr. ICKES. I am sorry, Resolution Trust Corporation.

Mr. GRAMS. Now, it's my understanding that shortly after Roger Altman met with Bernie Nussbaum—these are the next six lines that I'd like to read. With Bernie Nussbaum, me and others, concerning the RTC statute of limitations, he received an opinion from an ethics officer of the Treasury Department that he, as acting head of the RTC, did not have to recuse himself from matters involving Rose, Madison Guaranty. I will confirm the situation.

The rest of the memo, 25 pages, have been redacted; and you say you do not remember.

Do you remember what was in the rest of the 25 pages? If this was pertinent to this investigation, nothing in the remaining 25 pages was pertinent to the line of questioning we have today?

Mr. ICKES. Mr. Chairman, I would ask for you to decide whether this is within the scope of this investigation.

Mr. GRAMS. Do you remember what it was?

The CHAIRMAN. The Chair will explain that it's not within the scope.

Mr. BAKER. Point of inquiry, Mr. Gonzalez.

The CHAIRMAN. Yes?

Mr. BAKER. How can we make that determination if the redacted documents are not in this committee's possession? You'd have to know what the substance of the document is to determine that it's beyond the scope.

The CHAIRMAN. That's precisely why. Because under the——

Mr. BAKER. So if we don't know what it is, it can't be considered?

The CHAIRMAN. That's not the point. The point is that the redaction was done in accordance with our own request in answer to our request that we be given the information we were seeking within the call of the hearing.

Mr. BAKER. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. And this is not. So I would say that the witness does not have to answer.

Mr. BAKER. Further parliamentary inquiry, Mr. Chairman.

This is the document in question which has been requested in writing of Mr. Cutler, has been requested for the past 2 days. You had indicated you would help the committee get access to this document, and as of this moment, we have yet to receive it. I think it is important. The gentleman's line of questioning is appropriate, and I do believe the gentleman is here who we made the specific written request of.

Mr. ICKES. Mr. Chairman.

The CHAIRMAN. The witness is instructed that he properly can refuse to answer that aspect of the interrogation. We have the document, but the matter's not pertinent to the scope of the hearing. And so it's not a question of whether or not——

Mr. BAKER. Mr. Chairman, parliamentary inquiry. Is the document now subject to review by other members of the committee?

The CHAIRMAN. It's been in the possession and available in redacted form.

Mr. BAKER. Not the redaction.

The CHAIRMAN. That is right.

Mr. BAKER. What is before us, I think, is a request for the redacted information, the missing 25 pages.

The CHAIRMAN. If it was within the scope of our inquiry. And we have yet to hear whether it is or it isn't; and in this case, Mr. Ickes has properly answered or questioned the propriety of answering the area outside of the scope of this hearing and to which he has acceded in our request to appear before us.

Mr. BAKER. Is it now your judgment the document should not be made available to this committee?

The CHAIRMAN. I didn't say that.

Mr. BAKER. Will it be made available?

Mr. ICKES. Mr. Chairman.

The CHAIRMAN. It will be made available on the same terms as all of the documents that have been given to us by the White House and every other agency.

Mr. ICKES. Mr. Chairman.

Mr. RIDGE. Further parliamentary inquiry, if I might, Mr. Chairman.

The CHAIRMAN. Yes, Mr. Ridge.

Mr. RIDGE. Just a procedural matter, Mr. Chairman. When the guidelines were designed to determine what material was appropriate and what material should be redacted, was the minority involved in setting the criteria?

The CHAIRMAN. Yes, sir. Absolutely.

Mr. GRAMS. Mr. Chairman, I move to answer my last question. What—the light was still on. Could I just finish this quickly?

The CHAIRMAN. Pardon?

Mr. VENTO. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. Well, the Chair will recognize the gentleman for about—I think he had about 1 minute, 1½ minutes——

Mr. GRAMS. If I could just finish.

The CHAIRMAN. At the most, at the time the question, the propriety of the question.

Mr. VENTO. Well, Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. State it.

Mr. VENTO. The light was out at the time, Mr. Chairman. But my parliamentary inquiry is—wasn't it the White House that made the decisions, White House counsel, as to whether or not material would be released from the White House? Didn't Mr. Cutler testify about redactions along those lines yesterday?

The CHAIRMAN. Yes, he explained what a redaction means.

Mr. VENTO. So they responded to the information that was requested, material that was excluded was not requested. Is that correct?

The CHAIRMAN. That's correct.

Mr. VENTO. Thank you, Mr. Chairman.

Mr. LEACH. Parliamentary inquiry.

The CHAIRMAN. Yes, sir.

Mr. LEACH. Isn't it true that there's a difference in the way documents have been presented? The Treasury has indicated that the counsel on the minority and majority side can look at documents under question. The White House has not.

As a political scientist, of course, I have some doubts about redactions, but I've learned, frankly, in the discussion yesterday that this is a very serious and profound legal ethics issue that I was——

Mr. BACCHUS OF FLORIDA. Point of order, Mr. Chairman. This isn't a parliamentary inquiry.

Mr. LEACH. Unaware of with respect, as Mr. Cutler pointed and, to legal comity.

My inquiry is, after the notation that minority counsel was never involved in the discussions, is it a matter open to the committee review whether minority counsel with majority counsel can look at redacted documents?

The CHAIRMAN. Yes, well, I think the gentleman understands the history of this and the participation on an equal basis of not only the minority and majority counsel and the staffs in making the request of the White House.

The White House set the terms but replied to every single inquiry we made requesting documents germane to our inquiry.

Now, I understand at this point—but, however, if the gentleman from Minnesota has a remaining question to ask, I will ask him to do so at this time.

Mr. GRAMS. I would just like to ask Mr. Ickes if he remembers what the remaining part of the memo said. There were reports that said you do not recall this memo, but during testimony today you've recalled numbers of meetings and phone conversations but can't remember a 25-page memo. Is this true?

Mr. ICKES. Congressman, it's my understanding that Mr. Cutler is in the process or perhaps even has delivered a letter to the committee with regard to this document.

Mr. GRAMS. Would you join me and the rest of the committee in asking that it be made public? I'd like—I hate to think that we have something to hide in here, that the White House counsel has decided to redact without—and you know the White House counsel is here representing the President, is not going to let us see what was in this memo.

Mr. MFUME. Mr. Chairman, I object. The witness should not be asked to join into an action with the committee.

Mr. GRAMS. How about if I just ask him to do it on his own?

The CHAIRMAN. Let me advise the gentleman.

On June 27, I addressed a letter to Lloyd Cutler in which I pointed out that the committee was having hearings on various aspects of the failure of Madison Guaranty Savings and Loan. In order to assist the committee, please provide copies of all records in your possession or under your control, regardless of format, related to the following.

And, one, of course, since then—remember that's June 27—relating to the documents of Mr. Foster, which, as we have explained, is outside of our purview because of the yet remaining or unterminated investigation by the special counsel.

Second, contacts between the White House officials and officials of the Treasury Department and the Resolution Trust Corporation related to Madison and Whitewater Development Corp. Please, deliver the records to the staff in the proper office.

On July 28—that is dated the 28th, but I believe that it was just received today. It was just received today. We have a reply from Mr. Cutler, and he explains in his second paragraph—and this letter, have we got copies? Well, they were just making them because we received these today. And this copy will be given to the counsel and to the members, of course.

[The information referred to can be found in the appendix.]

If you will see, in your letter of June 27—he's referring to the one I just read—you asked the White House to provide documents relating to contacts between the White House and Treasury Department or the Resolution Trust Corporation regarding Madison Guaranty and Whitewater. We properly provided the committee with those documents.

As I explained during my testimony on Tuesday, day before yesterday, we redacted from the documents material that related to other matters and was not responsive to your request.

During my testimony, various minority members raised the issue of redactions generally and the redactions made on a March 1, 1993, memorandum from Harold Ickes to Mrs. Clinton in particular. As I said yesterday, we redacted from the March 1 memorandum those portions of the document that were not responsive to the committee's request.

The memorandum has two substantive paragraphs. We redacted the first paragraph. It does not relate to contacts between the White House and Treasury or RTC regarding Madison Guaranty and Whitewater. It simply describes three documents that are attached to the memorandum. None of the documents attached to the memorandum relates to contacts between the White House and Treasury or RTC regarding Madison Guaranty and Whitewater, and they are redacted.

The attachments are: One, an eight-page FDIC report dated February 17, 1994, finding that the retention of the Rose law firm by the FDIC did not involve a conflict of interest by the law firm; two, a seven-page RTC report on the same subject dated February 8, 1994; and, three, a seven-page legal memorandum dated February 28, 1994, analyzing the reports and other matters.

The FDIC and the RTC reports were made public at or before the RTC oversight hearings held on February 24, 1994, by the Senate Committee on Banking, Housing and Urban Affairs. None of these documents describes, refers to, or was provided during the White House/Treasury contact.

I trust this additional information will finally resolve any outstanding concerns regarding the White House document production. So I think that should lay to rest your inquiry.

Mr. GRAMS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. Yes, sir.

Mr. GRAMS. What safeguards do we really have—I know Mr. Cutler—about what has been redacted through this investigation? I know he talked a lot about trust, but in the real world, you know that many times people are appointed to act as independent judges between the two sides to make sure what was redacted was right.

So what safeguards have been put in place as far as this situation goes? Are we taking just the word of the White House counsel or do we have the word of an independent judge that has overseen some of this as well?

Mr. KLEIN. I have a——

The CHAIRMAN. Excuse me, just a minute.

First, we have the determination of the special counsel himself.

Second, what we're embarking on is the relationships, as we have gone through all day, involving Treasury, White House officials, staff, counsel, and so forth.

Now, Mr. Cutler is the proper person, and he has replied, I believe, as fully as possible as to the contents. And, somewhere, as he so earnestly pled day before yesterday, we're going to have to have some faith and trust in an official who up to now at no point has had his integrity impugned in any manner whatsoever.

So I think this letter is about as full as we can have, because it explains the redacted portion. What more could we possibly ask for?

Mr. Klein.

Mr. KLEIN. Mr. Chairman, just so that I can understand and maybe the rest of the world that's watching this can understand, the memorandum of March 1, 1993, that is referred to in Mr. Cutler's letter is the same one that is the subject of the inquiry before Mr. Ickes at the present time?

The CHAIRMAN. Yes.

Mr. KLEIN. Same one. Well, unless I'm misreading Mr. Cutler's letter, isn't he saying that, of the 25 pages, they consist primarily of attachments? Two of the attachments have already been made public?

The CHAIRMAN. That's correct.

Mr. KLEIN. So there's no mystery about them. The redacted paragraph, the first paragraph, essentially says the same thing that Mr. Cutler says in his letter; namely, describes the three attachments.

Mr. BAKER. Would the gentleman yield?

Mr. ROTH. Mr. Chairman, parliamentary inquiry.

Mr. VENTO. Mr. Chairman, parliamentary inquiry.

Mr. ROTH. Thank you, Mr. Chairman, for recognizing me. I was going to mention here——

The CHAIRMAN. I have not recognized you.

Mr. ROTH. That, yes, you do have all the faith and trust in Mr. Cutler. But we also have to remember that Mr. Cutler is the President's attorney, and as——

Mr. VENTO. Mr. Chairman, regular order, Mr. Chairman.

Mr. BACCHUS OF FLORIDA. Point of order, Mr. Chairman. The gentleman has not been recognized.

Mr. VENTO. Mr. Chairman, Mr. Klein has been recognized.

The CHAIRMAN. Let's calm down, will you please? I have not recognized you.

Mr. ROTH. I thought you pointed to me. I'm sorry, Mr. Chairman. I thought you pointed to me.

The CHAIRMAN. Well, you're out of order. I didn't even look with consent in mind.

Mr. VENTO. Mr. Chairman, parliamentary inquiry. Right now—what's the status right now? Who has the floor?

The CHAIRMAN. Mr. Vento, what is your parliamentary inquiry?

Mr. VENTO. My parliamentary inquiry is that inquiries were made as to the record by my colleague from Minnesota. The explanation was made, that, in essence, the counsel, Mr. Cutler, has in fact stated what was the content of those materials which were redacted.

The parliamentary inquiry came as to whether there was any way that we knew that anything that came from the White House was, in fact, reliable. Is that correct?

Mr. ROTH. Would the gentleman yield?

The CHAIRMAN. Wait a minute. What is your inquiry?

Mr. VENTO. My inquiry is, hasn't the information or the question been answered as to what was redacted? Hasn't the White House letter shared that information with the gentleman from Minnesota?

The CHAIRMAN. That's not a parliamentary inquiry. We must proceed now.

Mr. ROTH. Mr. Chairman.

The CHAIRMAN. At this hour, it would be very disappointing to have disruptive——

Mr. ROTH. Mr. Chairman, could I be recognized for 30 seconds?

The CHAIRMAN. At this point, the Chair will not do so, because in that case, we would be disrupting the orderly process mandated rule, which every member has a right to be recognized for 5 minutes. And I do not want to set up on either side, and I have up to now, any deviation showing a privilege of deviation from that rule.

We'll proceed and come to this side and recognize Ms. Waters—

Mr. GRAMS. Mr. Chairman, did I lose my last minute of my——

The CHAIRMAN. Yes, sir.

Ms. WATERS. Thank you very much, Mr. Chairman.

I'd like to take a different line here. I have been receiving some very unkind calls to my office. I think they're orchestrated by a small group and they refer to God and family values and they have called me and our witnesses rather vile names.

And I find that rather strange because I am extremely proud of all of our witnesses here today. They have comported themselves in an admirable way. I find them to be bright, intelligent, hard working.

Certainly, as I read through these bios, it's obvious they have great family values. They're law-abiding citizens. Even reverent churchgoers, many of them. They have worked hard to get where they are. They continue to work hard.

Mr. McLarty, I understand that you're a businessman. You served in the legislature, you know.

Mr. MCLARTY. I am.

Ms. WATERS. You have any children?

Mr. MCLARTY. I have two sons.

Ms. WATERS. I understand you even attend church regularly, is that true?

Mr. MCLARTY. My wife and I have been members of Pulaski Heights United Methodist Church in Little Rock for a number of years.

Ms. WATERS. Mr. Stephanopoulos, what did you get your Masters in?

Mr. STEPHANOPOULOS. Theology.

Ms. WATERS. I didn't hear you.

Mr. STEPHANOPOULOS. Theology.

Ms. WATERS. Theology. What does your father do?

Mr. STEPHANOPOULOS. He's a Greek orthodox priest.

Ms. WATERS. You graduated with honors?

Mr. STEPHANOPOULOS. Yes, ma'am.

Ms. WATERS. Young man, did you work hard to get where you are?

Mr. STEPHANOPOULOS. Sometimes too hard.

Ms. WATERS. Put in long hours?

Mr. STEPHANOPOULOS. Yes, I do, I think.

Ms. WATERS. Mr. Lindsey, are you married?

Mr. LINDSEY. Yes, ma'am.

Ms. WATERS. Have you any children?
Mr. LINDSEY. Two daughters.
Ms. WATERS. Two daughters. How old are they?
Mr. LINDSEY. Seventeen and sixteen.
Ms. WATERS. You practice law?
Mr. LINDSEY. In Little Rock, yes, ma'am.
Ms. WATERS. You worked hard?
Mr. LINDSEY. Hope so.
Ms. WATERS. Successful lawyer before you started doing this work?
Mr. LINDSEY. Hope so.
Ms. WATERS. Mr. Ickes.
Mr. ICKES. Yes.
Ms. WATERS. Your father served in the Roosevelt administration. What did he do?
Mr. ICKES. He was the Secretary of Interior during the entire Roosevelt administration and several years into the Truman administration.
Ms. WATERS. Are you married?
Mr. ICKES. Yes.
Ms. WATERS. Do you have any children?
Mr. ICKES. I have an 8-year-old daughter.
Ms. WATERS. Successful attorney?
Mr. ICKES. I hope so. Never know.
Ms. WATERS. Mr. Gearan, you graduated with honors, an attorney. Are you married?
Mr. GEARAN. Yes, Congresswoman.
Ms. WATERS. Do you have any children?
Mr. GEARAN. Yes, I have a 2-year-old daughter.
Ms. WATERS. Mr. Podesta, you're an attorney?
Mr. PODESTA. I am.
Ms. WATERS. Businessman?
Mr. PODESTA. Yes.
Ms. WATERS. You worked in the Congress of the United States at some point?
Mr. PODESTA. I did, in the—on the Senate Judiciary Committee. And I was the chief counsel of the Senate Agriculture Committee.
Ms. WATERS. Were you a trial attorney in the Justice Department of the United States?
Mr. PODESTA. Yes, I was.
Ms. WATERS. Mr. Sloan, did you work in the Justice Department?
Mr. SLOAN. Yes, I did.
Ms. WATERS. Are you married?
Mr. SLOAN. Yes, I am.
Ms. WATERS. Do you have children?
Mr. SLOAN. Yes, I do.
Ms. WATERS. How old are they?
Mr. SLOAN. I have two daughters, 5 and 3, and I have a 2-week-old son.
Ms. WATERS. Ah-h-h. Strong family values, I would say.
Mr. SLOAN. Yes, ma'am.
Ms. WATERS. You served as a clerk, U.S. Court of Appeals and the Supreme Court?
Mr. SLOAN. That's correct.

Ms. WATERS. Mr. Eggleston, a lawyer?
Mr. EGGLESTON. Yes.
Ms. WATERS. Law clerk to whom?
Mr. EGGLESTON. Chief Justice Burger and a judge on the Third Circuit, Judge Hunter.
Ms. WATERS. You even did some work for this House, did you?
Mr. EGGLESTON. I did. It's one of the proudest years I've spent.
Ms. WATERS. Ms. Williams.
Ms. WILLIAMS. Yes, Congresswoman.
Ms. WATERS. It's unusual for an African-American woman to get to where you've gotten. How did you do that?
Ms. WILLIAMS. I worked real hard, and I prayed real hard.
Ms. WATERS. Oh, you pray.
Ms. WILLIAMS. I'm praying now.
Ms. WATERS. You worked for the Children's Defense Fund.
Ms. WILLIAMS. Yes, that's correct.
Ms. WATERS. Got a Master's Degree from Annenberg School?
Ms. WILLIAMS. Top-ranked communications school in the country.
Ms. WATERS. Would you say you're a hard worker?
Ms. WILLIAMS. I believe so.
Ms. WATERS. Ms. Caputo, I guess I must commend both of you women for having attained what you have obtained, working in the positions that you are working.
We heard a little bit about your background. You come from a family of attorneys and people who have been involved in public and private service. Is that right?
Ms. CAPUTO. Yes, Congresswoman.
Ms. WATERS. Graduated with honors, did you?
Ms. CAPUTO. Yes.
Ms. WATERS. From where?
Ms. CAPUTO. Brown University.
Ms. WATERS. Would you say you're a hard worker?
Ms. CAPUTO. Yes.
Ms. WATERS. Would you jeopardize all that your family has obtained and you have obtained in the way that's been described by some of those who would accuse you of wrongdoing?
Ms. CAPUTO. Not on your life, Congresswoman.
Ms. WATERS. We all know that all of you have been judged to have not committed any criminal acts at all, nor have you committed any unethical behavior. I would like to apologize for what we're putting you through and commend you all for being hard-working people with strong family values and religious values. Thank you very much.
The CHAIRMAN. The time of the gentlelady has expired, I regret it. I was hoping she'd ask me about my marital situation.
Mr. FRANK. That might have been sexual harassment if she asked you.
The CHAIRMAN. I've got them all beat.
Anyway, Mr. Baker.
Mr. BAKER. Thank you, Mr. Chairman.
With regard to the redacted documents which I requested from Mr. Cutler and the White House, we're interested primarily in the third portion of that 22–25-page report. And, to date, there has been no response on White House document No. 1 dated January

7, "Synopsis of Whitewater Madison Guaranty matter." We're still waiting on a response of that matter.

I yield the balance of my time to Mr. Roth.

Mr. ROTH. I thank you for yielding.

You know, Mr. Chairman, a while ago I asked you to yield to me. What I was going to mention is that we all believe Mr. Cutler. But we also realize that Mr. Cutler is the President's attorney and, in that respect, speaks for the President and has his obligation and his job.

We also used to have a saying around here, an adage, trust but verify. And, you know, my friends, when I see all the redactions or, as we would say, the erasures and the deletions, I just have to ask, what are you hiding? If you're not hiding anything, why didn't you come forth and let the American people see what's in these documents?

The reason I am concerned about this is because, as a Congressman, I have an obligation. I have a job to do.

I'm not being allowed to do my job. You know that. In 5 minutes, how can I ask you questions that's going to reveal the truth of what is going on in this case? It can't be done. You've set the rules, and he who sets the rules wins the game. And you set all the rules before you came up here. So it's a charade to a degree, isn't it?

Now, Mr. Lindsey, you are the President's bosom buddy. You are at his elbow. You've known him for 25 years. Now, according to the deposition to this committee, you briefed the President on the RTC criminal investigation of Madison Guaranty; is that right?

Mr. LINDSEY. No, sir.

Mr. ROTH. That's not right?

Mr. LINDSEY. No, sir. As I indicated before, while we were on a trip to California I had a telephone call with a lawyer who is not in the government, who indicated to me that he had received press inquiries concerning criminal referrals.

Sometime after that, shortly thereafter, I informed the President of the conversation, and I did inform him that it was my understanding that there were criminal referrals, that those referrals mentioned the Clintons, but that they were not targets or subjects of those referrals. At that point I don't think I had any knowledge on the contents of the referrals.

Mr. ROTH. Now, when you talked to the President, did you also talk to Mrs. Clinton about RTC criminal investigations?

Mr. LINDSEY. No, sir.

Mr. ROTH. You did not?

Mr. LINDSEY. No, sir.

Mr. ROTH. You are his close friend. This is a big issue. And you never talked to him about that?

Mr. LINDSEY. Was your question, did I talk to Mrs. Clinton?

Mr. ROTH. Yes, or to—or you talked to the President. I asked did you talk to the President and Mrs. Clinton, yes.

Mr. LINDSEY. I did not speak to Mrs. Clinton.

Mr. ROTH. You talked to the President?

Mr. LINDSEY. I just explained to you my conversation with the President.

Mr. ROTH. So the answer is, yes, I did talk to the President about the criminal referral.

Mr. LINDSEY. No, the answer is, yes, I talked to the President about the press inquiries that we received with respect to the referrals.

Mr. ROTH. I guess that is a distinction without a difference. You talked to the President about the criminal referral?

Mr. LINDSEY. No, sir.

Mr. ROTH. You did not?

Mr. LINDSEY. I spoke to the President after I received a call indicating that the press was asking about the criminal referrals. I indicated to the President, I mentioned to him that there were apparently criminal referrals, that the press knew about the referrals, that they were calling to ask questions about them. I most likely indicated I had spoken to Jim Lyons about that, and I did indicate to the President that my understanding was that he was mentioned in one of the referrals but that he was not a target or a subject of the referrals. At that point I do not believe I had any knowledge about the contents of the referrals and did not talk to him about that.

Mr. ROTH. What did the President say to you when you told him that?

Mr. LINDSEY. He in some way acknowledged receipt of that, but he didn't ask me to do anything—and I didn't—or suggest I do anything, and I certainly didn't do anything. If I could put this in some sort of context, this conversation occurred, I believe, on October 4 or 5. If you will remember, October 3 was the date the helicopters were shot down in Somalia.

During our trip to California, we had numerous conversations with Tony Lake, with the Secretary of Defense, with members of the Joint Chiefs of Staff. Some time during that trip I got this call from Jim Lyons, and I reported that call to the President, but that certainly wasn't his focus and we had a very—if we had any sort of conversation about it, he basically acknowledged the information.

Mr. ROTH. The next time you talked to the President about this, when was that?

Mr. LINDSEY. I believe it would have been after Sue Schmidt's story on October 31 or after Jeff Gerth's story on November——

Mr. ROTH. You expect me to believe——

The CHAIRMAN. The time of the gentleman has expired. The time of the gentleman had expired before he had completed his last question, and the witness has answered it, so the gentleman——

Mr. ROTH. Mr. Chairman, you are not allowing us to do our job. I think this is very important for us to do our job. Ms. Waters went way over, Mr. Chairman, and you didn't interrupt her.

Ms. WATERS. Mrs. Waters did not go way over.

The CHAIRMAN. Mr. Frank.

Mr. FRANK. Thank you, Mr. Chairman.

I concede I am not an expert on this, but there is sometimes a phenomenon with certain sects when they have made certain predictions and they haven't come true that a sort of millenialist tone creeps into their theology and they are always telling you why this will be coming later and later and later, and the promised land is always being put off further and further.

These hearings, it seems to me, are, A, very much on a very important issue. People will remember we went back and were talking about Whitewater and a number of people said, well, this is Arkansas in 1985, it is not the Presidency, and then people said, I think it even produced a cover on *Time* magazine, ah, but now there are allegations that the White House was used, so we had an issue then which was now we have the White House being used.

This set of hearings is whole and complete on that subject, on the subject of whether or not there was any interference, and, yes, there have been documents that have been subject to editing from the relevance standpoint, but my understanding is that, for instance, the documents in this memo were all seen by Mr. Fiske, so these were all seen by someone, in fact, an independent counsel. If there was anything that was criminal in them, they would have seen it. These are not documents that have never seen the light of day. These are documents that were analyzed by Mr. Fiske.

Now, I want to ask, because people have said, well, here is the terrible thing, some of you who have been working for the President of the United States heard that he and his wife were mentioned in a criminal referral and you were outrageous enough to mention that to him, that is the crime, the maximum crime of which people are charged, and what people have said as well, don't you think there was some good reason?

The gentleman from Wisconsin just said you mean you are his good friend and you didn't even mention it to him, so to some extent this is like the psychology question, who do you like better? Your mother or your father? If you mention it to him, you are terrible; if you didn't mention it to him, you are morons.

Of course, people mentioned to the President of the United States that they had heard that he was mentioned in a criminal referral, when everybody else was going to know it, but then the key question is having mentioned it to him, what did you do about it? Let me ask a question.

Jay Stephens, when was he hired? Does anyone here know when he was hired by the RTC?

Am I correct in assuming it was after the criminal referral? It would sound to me like it was after the criminal referral.

In other words, here is what happened, they said, hey, we are going to mention the President in a criminal referral, so you said, OK, let's get together and calm this down, first we will hire Jay Stephens. Then we will get an independent counsel and we will get some Republican independent counsel and we will give him the mandate to look into everything, then let's really aggravate the Congress and send Altman up there and tell them that they have got to extend the statute of limitations on this thing where there has been a referral. That also happened after all of this.

So I am still somewhat at a loss here.

Again, yes, you did tell the President, somebody told the President that he was in a criminal report. Then there was also the Governor of Arkansas. Somebody said they might have mentioned it to the Governor of Arkansas. Nobody can prove that.

In fact, nobody has even said who was supposed to have told him, but here is what they say should have happened, somebody should have said to the President, apparently, Mr. President, in the

interest of keeping things calm and peaceful, we are now telling you that you may not see the Governor of Arkansas, but we can't tell you why and you can't tell him why.

I guess that is what was supposed to happen. The White House counsel was supposed to go in, Nussbaum was supposed to go in and say, by the way, Mr. President, you can't see your successor, the Governor of Arkansas. Why not? I can't tell you, but don't tell him. Well, what will we tell the Governor of Arkansas? The President can't tell you. Well, how come you can't see me? I can't tell you, but I don't want you to think anything is wrong. That is the world that you are conjuring up.

What happened was, there was a referral, everybody with a brain and several people, present company included, without one, knew that that would lead to the thing getting in the paper. I didn't say who, Mr. Chairman. And what then happens is people in the White House staff say, Mr. President, the RTC is going to mention you and Mrs. Clinton in the referral and the RTC then proceeds to do a full investigation, they hired Jay Stephens, we extend the statute of limitations, you get an independent counsel, every possible thing could be done.

As I understand it, Mr. Stephens is still at work on this, so I must say that is why I am somewhat puzzled as to what people think we are, and we should also say that Mr. Fiske has looked into that and seen whether anything went wrong. That, Mr. Chairman, is where we are, and that is why we have people, frankly, trying to discredit this process.

I mean, I have been here 14 years and I never heard anybody say anything bad about the 5-minute rule except for Sonny Montgomery because it takes him so long to say anything, by the time he gets to the verb I forget what the noun was, but nobody else around here thought the 5-minute rule was impossible. We did the BNL investigation with the 5-minute rule. I think we did Silverado with the 5-minute rule. I have to tell you, when somebody has appeared before me and has done something wrong, I can generally find out with the 5-minute rule. My time has expired.

The CHAIRMAN. Mr. Nussle.

Mr. NUSSLE. Thank you, Mr. Chairman.

If only a $60 million loss to the taxpayers was that funny. I would yield down to my friend and colleague, Mr. Bachus.

Mr. BACHUS OF ALABAMA. Thank you.

First of all, I would like to set the record straight in that Mr. Frank got quite a laugh by saying that Jay Stephens was pursuing a criminal matter. That is not correct, he is not, and I hope no one was misled by that.

Mr. FRANK. If I said that—he was pursuing a civil matter. Sometimes my accent doesn't travel that well down South.

Mr. BACHUS OF ALABAMA. But he is not. Mr. Lindsey, I want to ask you just about one specific period of time, and the rest of you can keep praying, but Mr. Lindsey, you were interviewed by the committee staff regarding the Madison Guaranty criminal referral, and you said that the first time you were—that both Mr. Nussbaum and Mr. Sloan briefed you.

Mr. LINDSEY. No, I don't believe so.

Mr. BACHUS OF ALABAMA. Is that right?

Mr. LINDSEY. I believe that I said I thought that the first time I learned anything about this was from Mr. Sloan. I do not remember learning about it from Mr. Nussbaum.

Mr. BACHUS OF ALABAMA. Do you remember, Mr. Nussbaum has said that Mr. Padi told him that Mr. Nussbaum was the first to brief you.

Mr. LINDSEY. I am sorry, I don't understand.

Mr. BACHUS OF ALABAMA. Do you recall being briefed by Mr. Nussbaum?

Mr. LINDSEY. No, I do not.

Mr. BACHUS OF ALABAMA. Irregardless, you do recall being briefed by Mr. Sloan?

Mr. LINDSEY. Yes.

Mr. BACHUS OF ALABAMA. All right, and he was alone at the time?

Mr. LINDSEY. My remembrance is yes.

Mr. BACHUS OF ALABAMA. Then on a subsequent occasion Mr. Sloan and Mr. Eggleston briefed you?

Mr. LINDSEY. Correct.

Mr. BACHUS OF ALABAMA. Is that correct?

And what they briefed you about was the criminal referral which I think Miss Hanson met with Mr. Nussbaum and Mr. Sloan, and then—and that was on the 29th, I think we have established that.

Mr. LINDSEY. Well, my memory is that some time after the 29th, I guess, that Mr. Sloan came to me, indicated to me that there were criminal referrals with respect to Madison Guaranty, and that the Clintons were mentioned in those referrals, but that they were not targets or subjects of those referrals. That is all I remember.

Mr. BACHUS OF ALABAMA. These things I think are pretty well established by everyone, and that is that the meeting between Hanson, Nussbaum, and Sloan was on the 29th.

Mr. LINDSEY. Correct.

Mr. BACHUS OF ALABAMA. Then on the 30th or 1st, Miss Hanson called Mr. Sloan and Mr. Eggleston, and in fact Mr. Sloan reduced, document X–983, reduced that conversation to—here is that conversation dated November 30, of the conversation between Miss Hanson and Mr. Sloan. He indicates Mr. Eggleston is there. Then at some later——

Mr. SLOAN. I indicated that Mr. Eggleston might have been there on the October 7 conversation.

Mr. BACHUS OF ALABAMA. I will just say this, the document, I mean the document I think will speak for itself, and I don't think it is material whether he was there or not, but Mr. Sloan did reduce it to writing. Then at some later time, they sent you another document which is from Cliff Sloan to Bruce Lindsey to you?

Mr. LINDSEY. Yes.

Mr. BACHUS OF ALABAMA. And what it says is that one night last week we briefed you concerning RTC.

Mr. LINDSEY. No, I don't believe it says that.

Mr. BACHUS OF ALABAMA. It says one night last week Neil and I spoke to you; is that right?

Mr. LINDSEY. It says "with regard to the subject that Neil and I spoke to you about one night last week, we had some additional information that we would like to give you."

Mr. BACHUS OF ALABAMA. OK, fine. You reduced that conversation to writing, did you not?

Mr. LINDSEY. I had notes of the meeting I had with them after this.

Mr. BACHUS OF ALABAMA. So the meeting that you had with those two you reduced to writing, and it is——

Mr. LINDSEY. That is not my note.

Mr. BACHUS OF ALABAMA. This is it, with the 102 at the bottom.

Mr. LINDSEY. That is correct.

Mr. BACHUS OF ALABAMA. Now, let me ask you this, if the memo from Mr. Sloan to you was dated October 7, it says that the briefing was the week before. Now, on the 4th and 5th, you were in California?

Mr. LINDSEY. Correct.

Mr. BACHUS OF ALABAMA. So the meeting, if you received a memo from Mr. Sloan saying the briefing the week before, it would have obviously had to have been before you went to California?

Mr. LINDSEY. I think that is probably correct.

Mr. BACHUS OF ALABAMA. And that would be before Governor Tucker came to the White House?

Mr. LINDSEY. Let me try to answer.

The CHAIRMAN. The time of the gentleman has expired, and the witness will be given a chance to reply to your remark.

Mr. LINDSEY. You also, I believe, have notes that Mr. Sloan prepared from a conversation he had on October 7 with, I believe, Miss Hanson. If you compare my note with his notes, my note reflects both of his conversations with Ms. Hanson.

He phoned, I understand, on the 7th about the Early Bird. So this note which you have shown me is a meeting I had with Mr. Sloan on or after the 7th. I believe that is the first time I learned about Jim Guy Tucker being mentioned in the referral.

Mr. BACHUS OF ALABAMA. Let me say this and I understand exactly——

The CHAIRMAN. The time of the gentleman has expired, and if the witness has completed his statement, we will proceed.

Mr. BACHUS OF ALABAMA. I am only saying that I agree with him, Mr. Chairman, that his notes do reflect both meetings.

Mr. LINDSEY. So my only point, Congressman, is that I believe that I did not learn what is in Mr. Sloan's September 30 notes until the meeting I had some time on or after October 7, and I believe the only information I learned from Mr. Sloan prior to that was, as I indicated before, simply that there were referrals, that the Clintons were mentioned but that they were not targets or subjects of the referrals.

The CHAIRMAN. Mr. Bacchus.

Mr. BACCHUS OF FLORIDA. Thank you, Mr. Chairman.

Mr. Chairman, I would like to begin by congratulating our witnesses on the dignity and the decorum they have maintained throughout this hearing. The truth is they have done better than many of us have, and I congratulate them.

I would like to follow up on the questions that were just asked by my colleague from Alabama in order to give the witnesses an attempt to clarify. My questions are for you, Mr. Sloan.

Comparing your notes of your telephone conversations with Jean Hanson on September 30 and then on October 7, it looks to me like you briefed Mr. Lindsey on the details of both conversations on or after October 7. Is that the way it happened, sir?

Mr. SLOAN. That is what Mr. Lindsey's notes suggest to me. As I indicated before, yesterday was the first time that I ever had the opportunity to review Mr. Lindsey's notes after they had been released publicly, and that is what the notes seem to establish.

Mr. BACCHUS OF FLORIDA. It looks that way because Mr. Lindsey's notes include references to both the September 30 and October 7 phone calls, is that correct, is that why you reached that conclusion?

Mr. SLOAN. That is correct.

Mr. BACCHUS OF FLORIDA. The logical conclusion from that examination of those notes would be that Mr. Lindsey's notes must have been made on or after October 7; is that the conclusion you reached?

Mr. SLOAN. That is correct.

Mr. BACCHUS OF FLORIDA. Is that consistent with your recollection, to the extent that you have one, of these events?

Mr. SLOAN. I don't recall the details of the conversations. As I indicated earlier, I believe that I had a conversation with Mr. Lindsey after both of the conversations, that I had one after September 30 and after October 7, and I have tried to be clear every time I have been questioned about this that some of the conversations get compressed in my mind and I wasn't sure of the details of them.

Mr. BACCHUS OF FLORIDA. Thank you, sir. Mr. Lindsey, is that consistent with your recollection of these events?

Mr. LINDSEY. Congressman, that is absolutely consistent. I remember a very brief conversation with Mr. Sloan earlier in which we did not discuss any details, and then I remember the conversation on or after the 7th from which these notes were taken.

Mr. BACCHUS OF FLORIDA. And it was on October 6 that Governor Tucker met with President Clinton in the White House?

Mr. LINDSEY. That is correct, and I do not believe I was aware before that meeting that Governor Tucker was mentioned in the referrals.

Mr. BACCHUS OF FLORIDA. Thank you very much, Mr. Lindsey, and thank all of you. Mr. Chairman.

Mr. KENNEDY. Will you yield to me?

Mr. BACCHUS OF FLORIDA. Certainly, I will, Joe.

Mr. KENNEDY. Yes, I want to make the point that all of these conversations only occur after an appointee of the Bush administration, I believe Mr. Roelle, triggers the information chain by informing Ms. Hanson of the Treasury Department that, in fact, he is concerned, a Bush appointee is concerned about the RTC's leaks, and, in fact, wanted to make certain that the Treasury Department knew that these possible inquiries from the press would be coming forward, isn't that correct, Mr. Stephanopoulos or Mr. Sloan, whoever would be appropriate?

Mr. SLOAN. I don't have an independent recollection of Ms. Hanson mentioning that. There is a reference to Mr. Roelle in my notes, I believe, of September 30 conversation. It is a detail that

I don't have an independent recollection of, but other facts may establish that, but I don't have an independent recollection.

Mr. BACCHUS OF FLORIDA. Reclaiming my time.

Thank you, Mr. Kennedy, for that point.

I would like to point out for those who may be listening to this chronology that what this indicates is on the basis of the information we have, the reports we have, the conclusions we have from those who have investigated this matter, there is absolutely no truth to the innuendo that the President of the United States told the Governor of Arkansas that he might be under some kind of investigation, despite what the *Washington Times* and some other members of this body may be trying to imply.

I yield back the remainder of my time.

The CHAIRMAN. The gentleman yields back the balance of his time, and the Chair recognizes Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman.

I will yield to my friend, Mr. Castle.

Mr. CASTLE. Thank you very much, Mr. Thomas. Mr. Lindsey, just following along the same line of questioning, when a meeting is set up at the White House, is there an internal memorandum that goes around to everybody in the White House saying who is coming in and who the President is meeting with? We do that in Governors' offices, I know. I don't know if they do it there or not.

Mr. LINDSEY. It doesn't go to everyone. There is a memo usually generated by the schedule——

Mr. CASTLE. Scheduling office?

Mr. LINDSEY. Well, if a department, for example, Intergovernmental Affairs Office, requests a meeting for someone with the President, they would prepare a memo probably to the scheduler indicating that, the scheduler would then make a determination as to whether or not it should be placed on the President's schedule and then there would probably be a memo prepared, a briefing memo prepared for the President.

Mr. CASTLE. Who scheduled the meeting with Jim Guy Tucker? I assume you know him fairly well, also.

Mr. LINDSEY. Yes. I do not know who did. I did not.

Mr. CASTLE. Were you present at the meeting?

Mr. LINDSEY. No, I was not.

Mr. CASTLE. Do you know who was present at the meeting?

Mr. LINDSEY. My understanding was that Keith Mason of the Intergovernmental Affairs Office of the White House was there, Jim Guy Tucker, and the President. There may have been others, but those three I know.

Mr. CASTLE. OK. Do you know at that time if Jim Guy Tucker had any knowledge, independently of any of this, that he was the subject of criminal referrals?

Mr. LINDSEY. I read in the paper this morning that he said he did not.

Mr. CASTLE. Do you know whether or not the President and Jim Guy Tucker had any time alone together as sometimes happens coming in and out of meetings or whatever?

Mr. LINDSEY. I do not know that independently. I understand Mr. Mason says he was there for the entire meeting.

Mr. CASTLE. And it is your testimony that you did not know of the criminal referrals before that meeting so therefore you could not have told the President, I would assume, from that?

Mr. LINDSEY. I do not remember knowing that Jim Guy Tucker was referenced in the referrals before the meeting. I did know that there were referrals which mentioned the Clintons before the meeting.

Mr. CASTLE. When the White House attorneys, whenever they told you of the referral information, did they tell you that you should not discuss this with the President or the First Lady or were you ever warned about that at all?

Mr. LINDSEY. I don't believe so.

Mr. CASTLE. There was no warning whatsoever with respect to that?

Mr. LINDSEY. I don't believe so.

Mr. CASTLE. Changing subjects for a moment. You attended the October 14, 1993 meeting between Treasury and White House officials, on whether to confirm the existence of the criminal referral; is that correct?

Mr. LINDSEY. That wasn't the sole purpose, but that came up.

Mr. CASTLE. During that meeting Jack DeVore from the Treasury Department indicated that Jeff Gerth of the *New York Times*, according to the notes I have, wanted to learn from the RTC who had endorsed four checks given to the Clintons with a 1984 Clinton for Governor Campaign; is that correct?

Mr. LINDSEY. That was one of his inquiries, yes.

Mr. CASTLE. At this meeting was there discussion about whether it was proper for the RTC to confirm the existence of these checks; is that correct?

Mr. LINDSEY. Well, as I remember it, I think Mr. DeVore indicated that it was standard procedure or normal procedure to confirm the existence of a referral. I and others, I think, were surprised by that, raised a question about it, and we suggested that he should not confirm the referrals, but simply indicate that whatever had been received had been sent on.

He thought it was important that Mr. Gerth, who believed that somehow they were being bottled up in Washington, knew they had been sent on prior to his inquiry.

Mr. CASTLE. After the meeting, you then, as I understand it, you then called an Arkansas Democratic organization, or someplace in Arkansas and asked them for the campaign records questions concerning Gerth's questions?

Mr. LINDSEY. I asked someone who is the custodian of the Governor's records in Arkansas if she could look through the campaign records and see if they could find the checks that Mr. Gerth had mentioned.

Mr. CASTLE. What official function were you performing in obtaining this information, especially with some thought or even knowledge that the campaign records were the subject of a criminal investigation?

Mr. LINDSEY. I am not sure I knew that, but second of all, a week or two later, Sue Schmidt called me and asked me questions. She was also aware of the checks. She asked me about the checks, and I was able to respond to her questions because I knew a little

bit more about the checks, after having checked the records, than I did beforehand.

Mr. CASTLE. One final question. These lights are going on again. As I counted all this up, and I could be wrong by a few, but apparently there were about 40 or 50 contacts or meetings about the subject that we are discussing here today, the problems of RTC, Treasury, and criminal referrals, and it involved about 40 people.

Does this seem extensive to you in light of some of the professed innocence with respect to all of this? It bothers me a little bit that it was so, such an extensive umbrella that got into this whole business of whether there was a problem here or not.

Mr. LINDSEY. Well, again, I don't know the details of any of the contacts other than the ones I was involved with. I would agree with Mr. Cutler and Mr. Nussbaum that there apparently were too many people involved.

Mr. CASTLE. Thank you, Mr. Lindsey.

Yield back, Mr. Chairman.

The CHAIRMAN. The Chair would like to bring to the attention, even though they have a copy, this letter from Mr. Cutler, dated July 27, again received today, but which you should have a copy with an attachment he included dated October 5 concerning the meeting with Governor Tucker. I think we ought to read it for the record at this point because we went through that several times and had Mr. Cutler answer.

Then in pursuance of clarifying it, he sent us this letter, which we received today. It is addressed to me. "Yesterday I was asked a series of questions relating to a meeting between the President and Governor Jim Guy Tucker on October 6, 1993. I have made inquiries about that meeting and would like to report to the committee what I learned.

"The meeting took place at the request of Governor Tucker, who was in Washington to meet with the Arkansas congressional delegation. It began at 3:45 p.m. and lasted about 40 minutes. I am attaching a memorandum prepared for the President in advance of this meeting which shows that the purpose of the meeting was for the President to accept a copy of Governor Tucker's proposal for locating a defense finance and accounting servicing facility in Arkansas.

"Governor Tucker's proposal was declined by the Department of Defense." Let me say by way of parenthesis, some of us in Texas were trying to get that in Texas. "Mr. Keith Mason, the Deputy Assistant to the President for Intergovernmental Affairs, was present for the entire meeting. He has confirmed that the subject of Whitewater, RTC criminal referrals or Madison Guaranty were never discussed.

"I have reviewed Mr. Mason's detailed notes of this meeting and find no mention of anything even remotely related to the RTC investigation. According to Mr. Mason's recollection of the meeting and his notes, in addition to the defense facility, Governor Tucker also raised issues related to Medicaid funding and FDA research facility, interstate highway financing, National Guard cutbacks, and NAFTA," which I was very much against. "I trust this further elaboration will put any questions about this meeting to rest."

Mr. Sanders.

Mr. SANDERS. Thank you, Mr. Chairman. I would just like to ask some questions of Mr. Ickes, Miss Williams, and Mr. Eggleston relating to statements made at the February 2 meeting when some of you and Mr. Nussbaum indicated your views about Mr. Altman's decision to remove himself from the Madison Guaranty investigation.

I doubt that anyone would remember exactly what was said or in what context, certainly in what tone of voice, so I understand that it is difficult to judge these statements. Nevertheless, the best evidence is limited to what you who attended the meeting recall about the meeting. It is my understanding that at the February 2 meeting Roger Altman indicated that he was not going to personally decide whether to file civil suits before the deadline, rather he was going to follow whatever recommendation was made by the RTC staff. That is my understanding.

Is this true, and if it is, did any White House staff attending the meeting indicate to Mr. Altman that he or she disagreed with this plan? Mr. Ickes?

Mr. ICKES. That, certainly, is the gist of it, Congressman, and no one at that meeting indicated that he should do otherwise.

Mr. SANDERS. Miss Williams.

Ms. WILLIAMS. That is the gist of what Mr. Altman said.

Mr. SANDERS. Mr. Eggleston.

Mr. EGGLESTON. Congressman, that is my recollection as well.

Mr. SANDERS. For the same three people, did you have any reason to believe any of the White House staff that were present were requesting favorable treatment from Mr. Altman in the RTC investigation of Madison Guaranty?

Mr. ICKES. Quite to the contrary, Congressman. When he stated that he was considering whether or not to recuse himself, everyone there said it was up to him and there was no request that he take any action other than as he indicated he was going to do, as you have related in your earlier question.

Mr. SANDERS. Miss Williams.

Ms. WILLIAMS. That is exactly right. No one was trying to encourage Mr. Altman in one direction or the other.

Mr. SANDERS. Mr. Eggleston.

Mr. EGGLESTON. That is also my recollection, sir.

Mr. SANDERS. Do you have any reason to believe that Mr. Altman thought that any of the statements were a request for favorable treatment in the investigation of Madison Guaranty?

Mr. ICKES. I do not.

Ms. WILLIAMS. Not at all.

Mr. EGGLESTON. No, sir.

Mr. SANDERS. At any time after the meeting and before the statute of limitations was legislatively extended, did any of you express any concern that any of these statements might look like a request for special treatment?

Mr. ICKES. I did not.

Ms. WILLIAMS. No, I did not.

Mr. EGGLESTON. I did not.

Mr. SANDERS. Thank you very much, Mr. Chairman.

The CHAIRMAN. The gentleman yields back the balance of his time. The Chair will recognize Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman. I would like to yield my time to Mrs. Roukema.

Mrs. ROUKEMA. Thank you, Mr. Chairman. Mr. Podesta, I have a few questions for you, and you are the Assistant to the President from the White House staff, and I guess Staff Secretary, I am not quite sure what that meant, but in any case for purposes of our discussion today, in your testimony it is my understanding that you were assigned to coordinate the White House efforts with the Treasury Department to coordinate those efforts with Treasury Department to prepare for the testimony before the Senate in the oversight hearings, before the Senate; isn't that correct?

Mr. PODESTA. I think my testimony is specific. Mr. McLarty and Mr. Griffin asked me to keep an eye on the hearing.

Mrs. ROUKEMA. You were to do more than keep an eye on it. You were to really coordinate and—yes, go ahead.

Mr. PODESTA. And to try to make sure in any way that I could to suggest ways to keep it broad, fair, and focused.

Mrs. ROUKEMA. And you were working with Mr. Eggleston from the counsel's office, the White House counsel's office, as I understand it?

Mr. PODESTA. Yes, I was.

Mrs. ROUKEMA. He was to assist you in that regard?

Mr. PODESTA. Yes, he was.

Mrs. ROUKEMA. I must refer to your previous employment. I believe that the fact that you had been employed as a Senate staffer perhaps qualified you for this kind of position and perhaps you were considered to be especially sensitive to issues that might be raised with respect to contacts between the White House and Treasury officials regarding Madison Guaranty; is that your particular focus?

Mr. PODESTA. No, that was not my particular focus and I don't think that that specific issue entered into any decision to——

Mrs. ROUKEMA. In any case, you were the one, as I understand it, that testified that you were not informed of the February 2 meeting, February 2, 1994, meeting by Mr. Eggleston until 2 days prior to the Altman testimony before the Senate committee, even though you and Mr. Eggleston had been working together for at least the preceding week.

Mr. PODESTA. I think it is important to understand that I don't believe the Senate hearing was scheduled until about 1 week or maybe 8 days before the hearing, so——

Mrs. ROUKEMA. Yes, but you had been working together during that time, but it was only about 2 days before the hearing that you learned of the meeting, the February 2 meeting?

Mr. PODESTA. That is correct.

Mrs. ROUKEMA. Do you recall asking Mr. Eggleston at that time if there had been any other contacts that he was aware of between the White House and Treasury officials regarding Madison Guaranty and Whitewater?

Mr. PODESTA. I do not.

Mrs. ROUKEMA. You do not. As a result of the hearing I understand that you had him, that is Mr. Eggleston, call over to the Treasury to make sure that they were prepared to answer questions regarding the February 2 meeting; is that correct?

Mr. PODESTA. Mrs. Roukema.

Mrs. ROUKEMA. As I understand, that is true based on your interviews?

Mr. PODESTA. No, I don't believe that is based on my interview. As I said in my testimony, I believe that I raised the issue with Mr. Steiner and just said Mr. Altman should be prepared to answer questions about whether he had any contact——

Mrs. ROUKEMA. I see. But in any case you had taken an initiative with respect to getting Treasury——

Mr. PODESTA. That is my——

Mrs. ROUKEMA. I am running out of time. Let me ask you, it wasn't until March 1, 5 days after the Altman testimony, that Mr. Nussbaum, together with others in his office, first told you about further contacts, that there were other contacts. In the interim we learned that nobody answered, I mean, that Altman did not answer the Senators' questions when they questioned him.

Mr. PODESTA. I think, Mrs. Roukema, you have to understand what the question was which I think gave rise to the concern about the fall meetings. Senator Bond had asked Mr. Altman a question about how the White House had learned of the RTC criminal referrals. It was that question they were focused on on March 1, and that is the question that I spoke with Mr. Altman about and which he supplemented his testimony on the next day.

Mrs. ROUKEMA. But the fact is there was really no followthrough on communication where Mr. Altman or anybody at Treasury made an overt effort to get on the record the facts of those contacts and those meetings until——

Mr. PODESTA. That is just not correct.

Mrs. ROUKEMA. Until after you insisted or made the followup calls, and it seems to me that there was a lag time there, and one that should have caused you to question Nussbaum and those in his office as to why they hadn't come clean with you in giving you the full information from the get-go and why there had not been that followthrough because everybody knew or not everybody, but a good number knew that Mr. Altman should have made that forthright—given that forthright testimony at that Senate hearing.

Mr. PODESTA. Mrs. Roukema, can I answer that?

The CHAIRMAN. Yes, certainly.

Mr. PODESTA. I think that the circumstances show that we acted in a prompt manner. Mr. Nussbaum was away, I believe he was in Mexico on the day, at least the day following the hearing and through the weekend. I don't believe we received a transcript of the hearing until some time after the weekend, which I believe was Monday, and—February 28, and I called Mr. Altman on March 1, which was the very next day, so I disagree that there was a lag time.

Mrs. ROUKEMA. You didn't ask for any further explanation, despite the fact that you had been working with Mr. Eggleston during this period?

The CHAIRMAN. The time of the gentlelady has expired.

Mrs. ROUKEMA. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Klein.

Mr. KLEIN. Thank you, Mr. Chairman. I just want to say that as I observed the other day, I came into this hearing with a very open

mind and with an inquisitive mind, and I have been waiting. I have heard the witnesses, every one of them testify that there was no criminal or ethical wrongdoing, and I have yet to hear any testimony that contradicts that, and despite all of the very, very harsh partisan questioning on the other side, I still do not hear anything to the contrary. But I would like to ask a couple of questions specifically of Mr. Stephanopoulos.

I was unaware until today that you are the son of a Greek Orthodox priest, but let me ask you, can sons of Greek Orthodox priests get angry?

Mr. STEPHANOPOULOS. They sure can.

Mr. KLEIN. On February 25 did you get angry?

Mr. STEPHANOPOULOS. Yes, I did.

Mr. KLEIN. I think there were two incidents that you were involved in on February 25. The one was you learned about the appointment of Jay Stephens, who from everything I have read, was a harsh, partisan critic of the President and that he had been appointed for reasons that none of us know at the present time or by whom he was appointed, but he was appointed to handle the civil matters involving Madison Guaranty; is that correct?

Mr. STEPHANOPOULOS. Yes, that is true, and as I said in my testimony, sir, it was very surprising to me how such a decision could be made because he had been dismissed along with 99 other U.S. attorneys by President Clinton at the beginning of this term. All of the other U.S. attorneys, as they have with all their predecessors, accepted the fact that the President would replace them.

Only Mr. Stephens went on national television, on "Nightline" and several other outlets and criticized the President, attacked the President. In one case he even accused him of obstructing justice simply because, as all his predecessors had, he had asked for the opportunity to replace U.S. attorneys. As all of you know, that is one of the President's prerogatives.

I thought it was a clear conflict of interest, but once I got the facts from Mr. Steiner about how he had been appointed, that was the end of the matter. That was the end of the conversation.

Mr. KLEIN. But of all of the law firms that have done business with the RTC, and I assume there are hundreds and hundreds of them, that they could have chosen from, I guess you were, if not angry, a little upset that that one person was chosen?

Mr. STEPHANOPOULOS. I was very puzzled that of all the lawyers in Washington, of all the lawyers, frankly, in the United States that Jay Stephens could have been chosen, yes.

Mr. KLEIN. And the other thing that you got angry about or upset about, and I, frankly, I don't blame you a bit for doing so was that Mr. Altman—by the way, was there a procedure in the White House as to how people were to make policy announcements and whether they were to clear it, preinform press people in the White House?

Mr. STEPHANOPOULOS. Usually, there tried to be coordination, but I would point out that Mr. Altman did work for the Treasury Department, but usually the Departments would coordinate. If they had news for the day, they would tell the White House press office.

Mr. KLEIN. And you were surprised that he had made that statement without preinformation and in the course of a conversation with a representative of the press?

Mr. STEPHANOPOULOS. Yes, and I was surprised, and, frankly, I was concerned because that would have—the White House had had different guidance based on Mr. Altman's testimony before the Congress the previous day, so for a period of time we would be actually saying different things about the same subject, which is never quite helpful, and it was very surprising to me that he told the *New York Times* before he informed the press office at the White House, yes.

Mr. KLEIN. I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The gentleman yields back the balance of his time.

Ms. Pryce.

Ms. PRYCE. Thank you, Mr. Chairman. I yield to Mr. Thomas.

Mr. THOMAS. Thank you.

Mr. Podesta, I would like to pursue just a little more, if I may, your role. It is interesting that my associates on the other side here have talked about the fact that this is a trivial matter and that there is nothing here.

Certainly, it seems to me there is a basic element of openness in government that is important. Ethics is important, openness is important, separation, it seems to me, of various units of government is important, openness is important.

Do you agree with that?

Mr. PODESTA. Mr. Thomas, one of the proudest things I did as a staff member on the Senate Judiciary Committee was work for Pat Leahy in opposing Ronald Reagan's attempt to gut the Freedom of Information Act. Yes, I agree with that.

Mr. THOMAS. OK. Then let me—you were called on to be the point man or the coordinator, here, for this activity because of your background, apparently, in the legislature; is that right?

Mr. PODESTA. That is correct.

Mr. THOMAS. Do you think it is appropriate and common for the White House person to be the coordinator for rather an independent agency's testimony.

Mr. PODESTA. Mr. Thomas, we expected that the hearing would raise questions, as I said in my opening statement, some fair, some unfair, some intended just to embarrass the President, and that is what we were concerned about.

We wanted to make sure that the hearing was focused, broadly, and fairly, on our administration's record and the S&L cleanup.

Mr. THOMAS. I am not sure that is to my question. I said is it appropriate in your opinion for you to be doing it for an independent agency? You have read the White House ethics memos, haven't you?

Mr. PODESTA. I have read the White House ethics memos.

Mr. THOMAS. Don't they say that it would be best if the White House was not involved with these agencies?

Mr. PODESTA. I think the White House ethics memos indicate that on congressional matters, on legislative matters, policy matters, and hearings, there is no problem.

I did not think that in my role I had anything to do with the Madison Guaranty investigation of the RTC. That was not what I was doing. I was working on the hearing.

Mr. THOMAS. What did you think the most critical elements of this testimony would be, would they have to do with meetings with the White House?

Mr. PODESTA. No, I didn't—as I said, I didn't learn about the meeting with Mr. Altman, which was the first time I knew about a meeting with the White House until a couple days before the hearing.

Mr. THOMAS. What did you do when you found out about the meeting?

Mr. PODESTA. I believe I told Mr. Steiner that Mr. Altman needed to be prepared to answer a question.

Mr. THOMAS. But you thought it would be one of the important elements?

Mr. PODESTA. I didn't think it would be an important element, I thought it would be a question that was likely to be asked. As I said, I have sat where most of these people behind the dais are sitting, and I knew that was a question that might be asked, and he needed to be able to answer it.

Mr. THOMAS. It is kind of hard to listen to all this testimony about the concern of all of you involved in the concern about meetings and then have you say, well, it was just one of the elements. That is a little hard to imagine.

Mr. PODESTA. That is why I thought he should be ready to answer the question.

Mr. THOMAS. Why do you suppose you weren't told about the meetings, then, until 2 days before?

Mr. PODESTA. I believe Mr. Eggleston raised it with me in an appropriate manner before the hearing, and we took appropriate action for Mr. Altman to give in his testimony an honest answer.

Mr. THOMAS. There were more meetings than the one. You didn't hear about them at all, then, until afterwards, did you?

Mr. PODESTA. I didn't know about them, Mr. Thomas.

Mr. THOMAS. And you were the point man, however, to brief for the testimony?

Mr. PODESTA. I was not point man to brief for the testimony. I spent the bulk of my time worrying about how the testimony and how the hearing could be more fair, not focused on Madison, and——

Mr. THOMAS. Oh, not focused on Madison?

Mr. PODESTA. Not focused on Madison, and give the whole story of our administration's look and ability to run the RTC, to improve contracting practices, to get more money back from professional liability suits, and so forth. That is what I was concerned about.

Mr. THOMAS. I see. You didn't think Madison would be an important function?

Mr. PODESTA. I thought Madison would be raised as—may I answer that, Mr. Gonzalez? Maybe bring it up into a contemporary context.

Time magazine reported this week that there was a meeting in March in which Mr. Leach raised the question of whether these hearings would turn out to be a big nothing. Senator D'Amato, ac-

cording to the *New York Times*, however, argued that the Republicans should grab any opportunity to embarrass the administration. He won. That is what we were concerned about, an attempt to embarrass the administration.

Mr. THOMAS. Mr. Steiner in his memo, or in his diary, said that he was clearly frustrated because you were chosen point of contact, since you clearly were not—did not have the complete confidence of George and Harold.

How do you react to that?

Mr. PODESTA. Should I answer that?

Mr. THOMAS. Sure, I hope you will answer it, I asked you.

Mr. PODESTA. I have confidence in them, and I believe they have confidence in me, and I don't know what Mr. Steiner was referring to.

Mr. THOMAS. I see. OK, thank you so much.

The CHAIRMAN. The time of the gentleman has expired.

Mrs. Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman.

Mrs. Williams, do you keep a diary?

Ms. WILLIAMS. No, I do not.

Mrs. MALONEY. That is smart. Are you aware of the comments attributed to you in the diary of Mr. Altman, specifically, the entries dated January 11, 1994?

Ms. WILLIAMS. Yes, I am aware of those entries.

Mrs. MALONEY. When were you first informed of these entries or when did you learn about them?

Ms. WILLIAMS. I believe around July 7 or 8 Mr. Cutler asked me questions pertaining to the entries.

Mrs. MALONEY. Are the comments attributed to you in the diary accurate?

Ms. WILLIAMS. First of all, I don't recall having those conversations with Mr. Altman. In fact, shortly after Mr. Cutler informed me of the entries, Mr. Altman came to me and told me that he had made the entries.

I confronted him by saying, "Roger, I never said these things to you; I do not recall these conversations." I was very much upset. I will volunteer to you, however, of the two entries in Mr. Altman's diary, one of the things that I was saying to anyone who would listen was that Whitewater was a distraction from health care, and that it was my intention to keep Mrs. Clinton focused, it was my intention to keep our staff focused on Whitewater—I am sorry, on health care.

Additionally, what I had said to anyone who would listen that I thought that 17 years of poking around in Arkansas history did nothing to clothe, feed, or give health care to anybody in America, and I thought it was a distraction.

Mrs. MALONEY. So you do not remember having any discussions concerning Whitewater on or around January 11?

Ms. WILLIAMS. With Mr. Altman?

Mrs. MALONEY. Yes.

Ms. WILLIAMS. No, I do not.

Mrs. MALONEY. You participated in the February 2 meeting with the White House and the Treasury. At that meeting, did you try

to talk or persuade Mr. Altman not to recuse himself from the case?

Ms. WILLIAMS. At that meeting, as I indicated in my statement, I certainly gave my personal opinion. Once Mr. Altman said that regardless of the recommendation that the RTC staff would give to him, he would accept it, I did not understand why he would have to recuse himself.

Mrs. MALONEY. You were copied in Bruce Lindsey's memorandum of October 14, 1993 of the meeting with Jack DeVore and Jean Hanson at Treasury.

Why were you copied in that memorandum?

Ms. WILLIAMS. I do not know, and I did not see the memo.

Mrs. MALONEY. Why would you have been consulted or notified of press inquiries?

Ms. WILLIAMS. First of all, I have an extensive background in communications. Mr. McLarty has used me lots of times regarding communications matters. He asked for my advice. I am often a participant in meetings where communication concerns are the center of our attention.

Mrs. MALONEY. Could you describe for us how the Whitewater matter affects the work of the Office of the First Lady?

Ms. WILLIAMS. My particular concern was that the number of inquiries that were coming into our office and trying to be coordinated with the press office of the White House, that instead of working proactively on health care, on crime, on welfare reform, we were spending a lot of our time in a reactive mode, and I did not feel I came to Washington to do that.

Mrs. MALONEY. A lot of us feel the same way.

Thank you very much.

The CHAIRMAN. The gentlelady yields back the balance of her time.

Mr. Linder, I believe.

Mr. LINDER. Mr. Chairman, I yield to Miss Pryce.

Ms. PRYCE. Thank you, Mr. Linder, and welcome Miss Williams. Let's stay on this same line that we were just on in your prior questioning. Now, during your committee interview, you were shown Roger Altman's diaries, were you not?

Ms. WILLIAMS. The counsel attempted to show me the diaries. I told my lawyer he could look at them.

Ms. PRYCE. You did not look at them yourself?

Ms. WILLIAMS. No, I did not.

Ms. PRYCE. Can you explain why you did not?

Ms. WILLIAMS. I had no interest in looking at them.

Ms. PRYCE. I see. Can you fill us in on why you are not at least curious?

Ms. WILLIAMS. I had heard what the entries contained. I did not see the need to read them.

Ms. PRYCE. OK, so you already had heard what they said?

Ms. WILLIAMS. I heard first from Mr. Cutler around July 7, later I heard from Mr. Altman himself. I knew, essentially, what was in them.

Ms. PRYCE. OK. At the time of your committee interview, you denied having any recollection of those conversations with Mr. Altman; is that correct?

Ms. WILLIAMS. That is correct.

Ms. PRYCE. Now, today you have changed your story a bit to say you might have generalized at some time; is that right?

Ms. WILLIAMS. No, I did not. What I said in my statement today is that I willingly volunteered to you that on a number of occasions I had said the following: One, I thought that Whitewater was taking up too much time and that we should be working on health care. Additionally, I had said I did not see the relevance in looking at 17 years of Arkansas history to any of the problems that the American people were concerned with.

Ms. PRYCE. So since you didn't bother or didn't care to look at them, let me just at this time maybe refresh your memory as to what they said. The entry in Mr. Altman's diary documenting a conversation which he alleges you had with him at which time you told him that on the subject of Whitewater, Mrs. Clinton was, quote, in your words, "paralyzed," end quote, and that we need not worry about her schedule on health care if this is not resolved.

Now, does that help you remember making that statement?

Ms. WILLIAMS. First of all, those are not my words. I am not accountable for Mr. Altman's diary.

Ms. PRYCE. OK. Do you deny making that statement?

Ms. WILLIAMS. I deny making that statement.

Ms. PRYCE. Do you recall at this time telling Mr. Altman in the same conversation that Mrs. Clinton and not you generalizing, but Mrs. Clinton does not want counsel poking into 20 years of public life in Arkansas?

Ms. WILLIAMS. I do not recall the conversations. I do not recall saying that.

Ms. PRYCE. OK. Now, approximately a week before your July 23 interview with the committee staff, Mr. Altman came to you regarding these conversations; is that correct?

Ms. WILLIAMS. That is correct.

Ms. PRYCE. You told him at that time you did not recall them; is that right?

Ms. WILLIAMS. That is correct.

Ms. PRYCE. What was his reaction?

Ms. WILLIAMS. Mostly quiet.

Ms. PRYCE. He had no response that you can remember?

Ms. WILLIAMS. I don't recall. I was probably wrapped up in what I was thinking.

Ms. PRYCE. So you do not recall his reaction to you denying that he was being truthful?

Ms. WILLIAMS. Pardon?

Ms. PRYCE. You do not recall his reaction?

Ms. WILLIAMS. I do not recall his reaction. I recall him being quiet. That is what I recall.

Ms. PRYCE. All right. The next day Mr. Altman brought an envelope to your office; is that correct?

Ms. WILLIAMS. That is correct.

Ms. PRYCE. Did you see the envelope?

Ms. WILLIAMS. I saw the envelope. It was sealed; I believe it was taped. It had my name on it.

Ms. PRYCE. Did you see the words "personal and confidential" on it?

Ms. WILLIAMS. Yes, I did.

Ms. PRYCE. OK. What did you do with that envelope?

Ms. WILLIAMS. I threw it in my trash.

Ms. PRYCE. Did you throw it in the trash on the advice of your lawyer?

Ms. WILLIAMS. No, I threw it in the trash being consistent with my wish not to see his writing.

Ms. PRYCE. Did you consult anybody about these diaries before you threw them in the trash?

Ms. WILLIAMS. I am sorry, I had a lot of other things that day, I didn't believe that I had to consult anyone about what I threw in my trash that day.

Ms. PRYCE. I just wondered if you did.

Ms. WILLIAMS. No, I did not.

Ms. PRYCE. What was his response at that point when you threw information that he gave you marked personal and confidential?

Ms. WILLIAMS. As I recall, Mr. Altman walked into the lobby of my office; he gave it to me. I went into my inner office. He was not with me.

Ms. PRYCE. OK. And he didn't say anything?

Ms. WILLIAMS. I don't recall what he said, but I am sure he said something, like here is an envelope for you.

Ms. PRYCE. OK. Did you have any idea what was in it?

Ms. WILLIAMS. Yes, I did.

Ms. PRYCE. How did you know what was in it?

Ms. WILLIAMS. Because he had said he wanted to give me a copy of it.

Ms. PRYCE. Now, how are we to believe that all the shredding of documents and all the destruction of documents that have been going on through this entire process, at least through the accounts of the press, didn't happen if a very important document falls right into your lap marked personal and confidential and you destroy it?

Ms. WILLIAMS. Well, first of all, I knew a couple of things. One, I knew Treasury had possession of the document if, in fact, I had in the envelope Roger Altman's diaries, which I assume that it was. Second, I understood——

Ms. PRYCE. You just assumed that, though; is that correct?

Ms. WILLIAMS. That is correct, I assumed that.

The CHAIRMAN. The time of the gentlelady has expired.

Ms. PRYCE. Thank you, Mr. Chairman.

The CHAIRMAN. If the witness wishes to sum up. Have you completed your answer?

Ms. WILLIAMS. Yes, I believe I have.

The CHAIRMAN. All right. Fine. Ms. Roybal-Allard.

Ms. ROYBAL-ALLARD. Mr. McLarty, on the chance that all of the American public has not been glued to their television set for the last 10 hours or so——

Mr. MCLARTY. I think there is a very good chance of that.

Ms. ROYBAL-ALLARD. Then I hope that you will bear with me while I ask you some questions which you have already been asked, but for those taxpayers whose money we are spending right now on these hearings and who may have just recently tuned in, I would appreciate it if you would indulge me and again answer these same questions.

Mr. MCLARTY. I will be glad to.

Ms. ROYBAL-ALLARD. Did you ever do anything to try to influence the RTC's investigation of Madison?

Mr. MCLARTY. No, I did not.

Ms. ROYBAL-ALLARD. Did you ever do anything to try to influence the criminal investigation of Madison?

Mr. MCLARTY. No, I did not.

Ms. ROYBAL-ALLARD. To your knowledge, did the President or the First Lady ever do anything to try to influence the RTC's investigation of Madison?

Mr. MCLARTY. No, they did not.

Ms. ROYBAL-ALLARD. To your knowledge, did the President or the First Lady ever do anything to try and influence—I am sorry, I just asked that—to try and influence the RTC's investigation of Madison?

Mr. MCLARTY. No, they did not.

Ms. ROYBAL-ALLARD. To your knowledge, did any member of the White House staff do anything to try to influence the criminal investigation of Madison?

Mr. MCLARTY. Absolutely not.

Ms. ROYBAL-ALLARD. I yield back the balance of my time, Mr. Chairman.

Ms. WATERS. Mr. Chairman.

The CHAIRMAN. The gentlelady yields back the balance of her time.

For what purpose does the gentlelady seek recognition?

Ms. WATERS. Mr. Chairman, I seek recognition to clarify information that was submitted as fact by the gentlelady who indicated they had been shredding documents. She left.

The CHAIRMAN. At this point, we will proceed. I am sure that that question will be asked though.

Mr. Knollenberg.

Mr. KNOLLENBERG. Mr. Chairman, I yield my time to the gentleman from Georgia, Mr. Linder.

Mr. LINDER. Thank you for yielding.

Hello again, Ms. Williams, nice to see you.

Ms. WILLIAMS. Hello.

Mr. LINDER. Was the February 2 meeting that you attended your first knowledge of any criminal referrals?

Ms. WILLIAMS. No, the first time I learned of it, of the RTC investigation, and I don't recall focusing in on the words "criminal referrals," was in a Sue Schmidt article, I believe it was October 31.

Mr. LINDER. That was your first knowledge of it?

Ms. WILLIAMS. Yes, it was.

Mr. LINDER. Mr. Ickes, you briefed the President and Mrs. Clinton on the February 2 meeting; is that correct?

Mr. ICKES. I don't think I would use the word "brief." I would inform them.

Mr. LINDER. You informed them. Were they together when you informed them?

Mr. ICKES. They were not, to the best of my recollection.

Mr. LINDER. Was Ms. Williams with you when you talked to Mrs. Clinton?

Mr. ICKES. She was not, to the best of my recollection.

Mr. LINDER. Mrs. Williams, are you aware of that briefing?

Ms. WILLIAMS. No, I am not.

Mr. LINDER. Had you spoken with Miss Jean Hanson previous to the February 2 briefing at 5 o'clock?

Ms. WILLIAMS. I am sorry, pardon me?

Mr. LINDER. Had you spoken with Miss Jean Hanson previously about the February 2 briefing?

Ms. WILLIAMS. I had not spoken to Miss Hanson about the February 2 meeting.

Mr. LINDER. Did you meet with her before the meeting?

Ms. WILLIAMS. No, I did not.

Mr. LINDER. Why do her records show that she met with you at 1:20 that afternoon?

Ms. WILLIAMS. She did not meet with me.

Mr. LINDER. Jean Hanson appointments it says here, she was in the West Wing seeing you, and the notes in McLarty's handwriting say that she met with Williams at 1:20 p.m.; you say that did not happen?

Ms. WILLIAMS. That did not happen.

Mr. LINDER. Do you recall asking Mr. Altman if outside counsel——

Ms. WILLIAMS. I'm sorry.

Mr. LINDER. Do you recall asking Mr. Altman if outside counsel would be briefed by the Treasury Department?

Ms. WILLIAMS. I do not recall, if you're talking about—I have read recent news reports that a number of people suggest that at the end of the February 2 meeting that I asked Mr. Altman to brief outside counsel. While I do not recall that, I will say it is not inconsistent with my opinion that any matter concerning the personal legal status of the President or Mrs. Clinton should be brought to the attention of outside counsel.

I was very clear about making distinctions between what was an institutional issue and what should be brought to personal counsel.

Mr. LINDER. Mr. Eggleston, do you remember saying she was the one in the room that asked for the briefings of the outside?

Mr. EGGLESTON. I believe that. I remember the question being asked by someone. My best recollection is that it was Ms. Williams. It could have been someone else. It was not myself.

Mr. LINDER. Is it common or appropriate to use regulator's attorneys to brief private counsel?

Mr. EGGLESTON. Absolutely. These were—they were—in order to achieve either a statute of limitations tolling agreement or something, obviously they had to go and get the consent of the counsel to the private parties. I did not regard anything about what Ms. Williams had asked as being an improper question whatsoever.

What I understood is that, as the decision had to get made, particularly if there was going to be a request for a tolling agreement of the statute of limitations, that's a matter between the regulator and the private party, and the White House obviously would not be involved in that.

Mr. LINDER. Thank you.

Ms. Williams, Mr. Ludwig indicates that he contacted you on January 19, 1994, and has told us that he was under the impres-

sion that you were the point of contact at the White House on Whitewater; is that true?

Ms. WILLIAMS. He did contact me. I was never the point of contact on Whitewater in the White House.

Mr. LINDER. Did—did his attitude toward you incline you to think he might have thought you were? Because that's what his point was.

Ms. WILLIAMS. I can't recall my attitude at the time, one way or the other, when he called. I didn't focus on the call; it did not seem significant to me.

Mr. LINDER. Did Mr. Altman tell you that Jean Lewis, the lead investigator on the Madison/Whitewater matter and Kansas City RTC, believed that the dealings between Madison and Whitewater Development had indeed caused the loss of thousands of taxpayer dollars?

Ms. WILLIAMS. No, he did not.

Mr. LINDER. Did you inform the First Lady that the Comptroller of the Currency had advised you that in his view all White House should—the entire White House should promptly provide full public disclosure of all documents?

Ms. WILLIAMS. No, I did not tell her.

Mr. LINDER. What do you tell the First Lady, as her Chief of Staff? Mr. Ickes goes behind your back to brief her. You forget the meetings you have. What do you tell her?

Mr. MCLARTY. Mr. Chairman, I think—we respectfully ask the Chair's view. Are these questions in the scope of the hearing?

Mr. LINDER. Well, if it's in the scope of the hearing to ask how many children you have, it seems to me I ask what she says to the First Lady as the Chief of Staff.

Mr. MCLARTY. I was asking, Mr. Chairman——

Mr. LINDER. I was not asking you.

The CHAIRMAN. Ms. Williams——

Ms. WILLIAMS. Yes?

The CHAIRMAN. Has answered that question at the outset in her presentation, outlining the nature of her duties; and as far as your question is constructed, it seems to me that it goes beyond any reasonable question in that respect.

So that if the gentleman was not present at the time Ms. Williams gave us a sketch of her duties and her biography, I would say that the gentleman may ask her for her duties in connection with any relationship with the First Lady.

Mr. LINDER. As a matter of fact, Mr. Chairman, I was in the room, and I heard that; and it sounded like this lady was a powerful Chief of Staff. I would only ask the question because I find it curious that important matters that are brought to her attention are not brought to the attention of the First Lady, who should have knowledge of these matters.

The CHAIRMAN. Well, again, let me say, with all due respect, that we or you are hardly the judge as to what judgment should be exercised by the witness in her relationship with the First Lady.

If you will recall her explanation, she was not in, as I understood it, an equal or parallel position, for instance, with Ms. Caputo. But given your experience in telecommunications and all, you were called in not only by Mr. McLarty, but I assume the President and

Mrs. Clinton on matters having to do with press relations. Is that correct?

Ms. WILLIAMS. That is correct.

The CHAIRMAN. OK. So I think it's sort of an improper question and abuse of the witness to direct the question you did in the manner you did.

I would ask that if the gentleman is able to rephrase it, that he do so. If not, withdraw it.

Mr. LINDER. Is it part of—I'll try and rephrase it.

As a part of your duties as Chief of Staff to the First Lady, is it part of your responsibility to keep her fully informed on all matters that are important to the office and to her personally?

Ms. WILLIAMS. It is important for me to exercise my judgment. When I think it is a reasonable time to go to her and to tell her things, I use my judgment. I have a great deal of discernment.

I believe that my job is to offer support to the First Lady in terms of her activities. I manage her staff.

Let me tell you what we were doing in January. After the death of the President's mother, we went to Russia. We also had a major health care speech, the President's State of the Union Address. I worked with Mrs. Clinton very closely in formulating ideas for that speech.

Let me also tell you, that was also the same month as the California earthquakes. Mrs. Clinton went out later in January to talk to schoolchildren about the earthquakes and also to actually do some volunteer work while she was there. I talked to her a great deal about what that day would look like.

Let me also inform you that in January Mrs. Clinton also entertained the National Governors Association.

As I pointed out, part of my activities involve dealing with the social activities and the White House events. We not only had the NGA dinner, we also had the spouses' dinner.

In February, Mrs. Clinton went to Norway as the head of a delegation. I spoke to her at length about that. Also in February we did a rural health care forum. I was involved in the planning of that.

There were a number of things that I talked to Mrs. Clinton about, a number of things that would take up a lot of my time in my discussion with her.

Additionally, as I have pointed out to you, I made a conscious decision very early on that I would continue to focus on the issues that I felt were important. They were health care, they were welfare reform, and they were crime. That is how I spent my time with Mrs. Clinton.

Mr. LINDER. I thank you for providing that.

I'd like to point out that your memory is not as bad as I thought it was 10 minutes ago.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LaRocco.

Mr. LAROCCO. Thank you, Mr. Chairman.

Mr. McLarty and Mr. Lindsey, you've known the President for a long time. There have been some suggestions during the course of this lengthy hearing about involvement with Madison. Was the President ever an officer of Madison Guaranty, Mr. McLarty?

Mr. MCLARTY. Not to my knowledge, no, he was not.

Mr. LAROCCO. Was he a stockholder?

Mr. MCLARTY. No, I don't believe he was.

Mr. LAROCCO. He was not an officer?

Mr. MCLARTY. No.

Mr. LAROCCO. Was not a director?

Mr. MCLARTY. I think as Governor of the State, he was not a director of any corporation that I'm aware of.

Mr. LAROCCO. Mr. Gearan, with regard to the criminal referrals, this was—you've been involved in communications for a long time. Did you see the criminal referral?

You've never seen the criminal referral?

Mr. GEARAN. No, sir, I've never seen it.

Mr. LAROCCO. Did you expect to see it in the press at some point in time, the actual criminal referral, the text of it or actual document, a copy of the memo?

Mr. GEARAN. I had no idea what form it would take. I was aware that the reporters that were discussed at the meeting I attended were aware of it.

Mr. LAROCCO. But it's never appeared in the press anywhere?

Mr. GEARAN. Not that I'm aware of, sir.

Mr. LAROCCO. Not even in the Clinton Chronicles that have been circulated around this country and mean-spirited attacks on the President, it's never even shown up there, has it?

Mr. GEARAN. Congressman, I can't speak to the range and breadth of the mean-spirited publications that exist.

Mr. LAROCCO. You haven't seen the Clinton Chronicles, maybe.

And Ms. Caputo, have you ever seen the criminal referrals?

Ms. CAPUTO. No, sir, I haven't.

Mr. LAROCCO. And you've never seen them in the press as well.

It seems during the course of this hearing, with all the witnesses, that we would have expected to see this in the press at some point—that somebody would have seen them. Of all the witnesses that have been here before this committee, nobody has ever seen the criminal referral, although it has been the subject of a great deal of activity at the White House.

So, Mr. Stephanopoulos, you've been in politics for a long time; do you have any comments about what was going on here? Was this a campaign of disinformation, of spin that was being circulated with these inquiries coming into the White House or things being fed to the press about criminal referrals? Have you ever seen the criminal referrals?

Mr. STEPHANOPOULOS. No, I've never seen the criminal referrals, but as others have pointed out, information from these referrals was being leaked from the RTC or from somewhere else to the media, and we were then being forced to respond to those questions because of leaks that were given to the news media, where nothing had been given to the White House; you're right about that, sir.

Mr. LAROCCO. And it took up a great deal of the staff's time to prepare for the press inquiries and to respond to that, and then things made their way into the press and then allegations have been made and things taken out of context with regard to the criminal referral.

Mr. STEPHANOPOULOS. Certainly, a lot has been taken out of perspective. I would point out it didn't take nearly as much of our time as others would have you believe it has taken, but it was clearly a matter of intense press interest. We were getting lots of questions, not only from the press, but from the Congress as well at various times. We were forced to answer them, tried to respond as forcefully and as accurately as we could under time pressure.

We did the best we could, but in most of these cases, the information was leaked by others to others, and we had no knowledge of it. All we were trying do was get the facts.

Mr. LAROCCO. I think I was heading—where I was heading with the earlier part of my question, Mr. McLarty, was on the President's character; and I would just end up on that, if you want to add anything about the President's character in the remaining time.

You've known the President for a long time, and if you feel it's appropriate to respond to that, then I would use up the remainder of my time with your answer.

Mr. MCLARTY. I have known the President for 40 years now. I have the highest regard for his character and that has been strengthened since my service working with him every day here in the White House.

Mr. LAROCCO. I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The gentleman yields back the balance of his time.

Mr. Lazio.

Mr. LAZIO. Thank you, Mr. Chairman. I yield my time to the gentleman from Seaford, Long Island, Mr. King.

Mr. KING. Thank you, Mr. Lazio, Mr. Chairman.

Ms. Williams, I still have certain questions regarding your testimony. I'd like to ask a few questions, try to fill in the gaps. On the October 20 memo from Mr. Lindsey, which details the October 14 meeting, it says "cc to Maggie Williams," carbon copy to you, and you claim you never received a copy of that memo.

Ms. WILLIAMS. I don't claim. I did not see a copy of the memo.

Mr. KING. You did not see a copy of the memo.

Earlier this morning, Mr. Nussbaum said the White House is a small, intimate place. Do interoffice memos often get lost, especially from the Chief of Staff to the First Lady?

Ms. WILLIAMS. I can't tell you about the number of interoffice memos that are lost. I do not have any figures.

Mr. LINDSEY. Mr. King, can I respond to that?

Mr. KING. I'm under time.

Mr. LINDSEY. I wrote the memo, so maybe I could be of some help.

Mr. KING. Give me a quick answer, please.

Mr. LINDSEY. I had written a memo approximately a week earlier involving a conversation I had with a number of reporters. At the end of that conversation, they asked me some specific questions to get answers to. One of them was to the First Lady. I copied Ms. Williams on that memo.

My guess is that when I said to set up this memo, to my secretary, I said it's a memo to the file. It was in the same format as

the memo I had done the week before, and she indicated—and she noted the copies to Mr. Kennedy, Ms. Williams, and Mr. Gearan, each of whom was copied on the previous memo.

Mr. Gearan was at the meeting, so I didn't—you know, my guess is when I saw it, I told her that they were not supposed to be copied, and that they probably were never sent copies of it.

Mr. KING. OK.

Second point, I think in the diaries of Mr. Altman, I think it's a very significant point. Mr. Altman is one of the most powerful people in the administration, Deputy Secretary of the Treasury, and he quotes you directly saying the First Lady was paralyzed. He also says that you gave him the strong inference that the White House was trying to negotiate the scope of an independent counsel. And yet you deny ever saying this to Mr. Altman.

Have you ever known Mr. Altman to lie?

Ms. WILLIAMS. Not in my dealings with him, no.

Mr. KING. Have you ever known him to grossly exaggerate?

Ms. WILLIAMS. Not in my dealings.

Mr. KING. Have you ever known him to hallucinate?

Ms. WILLIAMS. I would not know.

Mr. KING. Is there any history of severe personal differences between you and Mr. Altman?

Ms. WILLIAMS. There is not a history of severe personal differences.

Mr. KING. Is there any feud between you and Mr. Altman in the administration?

Ms. WILLIAMS. There is not a feud between me and Mr. Altman.

Mr. KING. And yet he attributes these quotes to you.

Now, also on your—the diary, when Mr. Cutler advises you of it, and then Mr. Altman came by and gave you an envelope, a sealed envelope, at that time, were you already—you had already testified before a grand jury, retained counsel, you knew the special prosecutor—independent counsel was continuing his investigation, and you knew there were Senate and House hearings.

Did you ever consider giving that envelope to Mr. Cutler, the White House counsel?

Ms. WILLIAMS. No, I did not.

Mr. KING. Did you ever consider giving it to your counsel?

Ms. WILLIAMS. No, I did not.

Mr. KING. Did you ever consider turning over to the appropriate House and Senate committees investigating this matter?

Ms. WILLIAMS. No, I did not.

Mr. KING. Did you have any idea what was in the envelope, other than the fact that Mr. Altman gave it to you?

Ms. WILLIAMS. I assumed, as I said before, that it was——

Mr. KING. Didn't you have any curiosity to open it up and see what was in there?

Ms. WILLIAMS. Sir, my curiosity may not be on a par with yours. I did not have——

Mr. KING. That's a very important point you made. I think you are implying a reasonable person's standard here. I think a reasonable person, if they were involved in a matter such as this, that they would have the natural curiosity to see what was in that en-

velope; or at least turn it over to their attorney to protect themselves.

Now, listen, I've been in politics, I've been a staff person, I've been in elective office. And I come, as Mr. Ickes knows, from a part of the country where these investigations are the rule, rather than the exception. I've sat where you've been sitting, so I have some idea what this is about. But I have a hard time accepting your version of events.

We have to believe that you didn't get the October 20 memo. We have to believe that Mr. Altman, for some reason, has intentionally put down the most vicious things about you. For him to say, for instance, that you, for the White House, were trying to narrow the scope of the independent counsel; for him to say you came to him with—and he's the head of the independent organization which theoretically could be investigating the First Family, for you to tell him that the First Lady was paralyzed, then for you to also tell us you've never discussed Whitewater with the First Lady, to me just flies in the face of common sense and logic. It doesn't add up.

When you said that maybe I'm more curious than you, I would think most of the people in this country would be more curious than you. That's why I find it hard to accept your testimony.

Ms. WILLIAMS. Mr. King, my honesty in this matter does not depend on whether or not you believe me.

Mr. KING. It depends on whether the American people do. I said I think the average American person would—Mr. Chairman, I still have the orange light.

The CHAIRMAN. Well, the gentleman is going beyond the outer limits of propriety and is badgering the witness. He's asked the question, she's answered it.

Mr. KING. Mr. Chairman, I'm not badgering the witness. In fact, I said I could identify with the witness because——

The CHAIRMAN. If the gentleman didn't get the——

Mr. KING. I got the same feelings when——

Ms. WATERS. Mr. Chairman, the gentleman is out of order.

Mr. KING. I don't think Ms. Waters has anything to do with this line of questioning, Mr. Chairman.

Ms. WATERS. It most certainly——

Mr. KING. I have the right to ask questions. You had your chance. Why don't you just sit there?

Ms. WATERS. You are out of order.

Mr. KING. You are always out of order.

Ms. WATERS. You are out of order. Shut up.

Mr. KING. What was that? What was the last remark?

Ms. WATERS. You heard what I said.

Mr. KING. I didn't hear. I'd like to hear again.

I would like you to say it again.

Ms. WATERS. You heard what I said.

Mr. KING. I didn't hear it.

Ms. WATERS. I said, you're out of order.

Mr. KING. OK, I said you're always out of order.

The CHAIRMAN. Mr. King and Ms. Waters.

Mr. KING. Could I speak for myself? I just——

The CHAIRMAN. Mr. King, you are out of order.

Ms. WATERS. He is out of order, Mr. Chairman.

Mr. KING. I don't think anyone needs——

Ms. WATERS. Order, Mr. Chairman.

Mr. KING. Mrs. Waters butting in all the time. Nobody cares about you.

Ms. WATERS. Order, Mr. Chairman.

Mr. KING. Mr. Chairman——

The CHAIRMAN. Mr. King, you are out of order.

Ms. Waters, you're out of order. The Chair doesn't need any assistance other than that a Member of this body and this committee comport himself in a manner consistent with self-restraint and not an overweening method of actually badgering a witness.

What I was saying to the gentleman was, until his outburst and refusal to subject himself to the order that every one of us here, all the other members have up to now, leaves, I think, a bad taste in everybody's mouth. If the gentleman asks the question and he doesn't like the response, that's his privilege. But it isn't his privilege to badger the witness into trying to answer in conformity with what he would like for her to answer.

Mr. KING. In response to the chairman, Mr. Chairman, I do not believe I was badgering the witness. My only outburst, if it was, was at Ms. Waters, not Ms. Williams or any member of this panel.

The CHAIRMAN. Well, the gentleman, I appreciate that, and I think that I've said that both were out of order.

Mr. LAZIO. Mr. Chairman, may I just reserve a point?

I understand that the committee rules require that only staff and members come behind here to consult on the dais with members, I understand. I don't mean to be harsh or unreasonable, but Mr. Cutler has consulted with members, I am sure he can do that in other manners besides coming back here. I think it may be disruptive.

Mr. FRANK. Point of personal privilege, Mr. Chairman.

Mr. Cutler came to see me, I am sorry.

The CHAIRMAN. Let me reply to the——

Mr. FRANK. I apologize. It will never happen again.

Mr. LAZIO. Just want the rules enforced, Barney.

The CHAIRMAN. There is no rule that defines that, let me say.

Regular order, let's proceed with Mr. Barrett.

Mr. BARRETT. Well, thank you, Mr. Chairman. We've been here 11 hours, I think people are getting tired.

Ms. Williams, the issue was raised as to your throwing away this package. Did you recycle it? You don't have to answer that question.

I, frankly—in all seriousness, one of the things that struck me over the last few minutes is how initially today people were being criticized because they told the President or told someone else in the White House about the criminal referral. It seems that you were turned around and were being criticized for not telling your superior about the referral.

So I think we have a situation here, whether you told your superior or you didn't tell your superior, you can bet you're going to be criticized for somehow doing something wrong. And I think that people who are watching this and people who are here should be aware of that.

I also was quite surprised and, frankly, disappointed, when one of the previous speakers brought up the issue of getting rid of documents, of shredding—obviously, a very serious charge. And whether that came from a member, or came from the press, I think that that's a serious enough issue that I want to ask each and every one of you whether you or anyone you knew in the White House shredded any document in connection with Whitewater.

Mr. Sloan, I'll start with you if can we just go right down the line.

Mr. SLOAN. No, sir.

Mr. EGGLESTON. No, sir.

Mr. LINDSEY. No, sir.

Mr. STEPHANOPOULOS. No, sir.

Ms. WILLIAMS. No, sir.

Mr. MCLARTY. No, sir.

Mr. ICKES. No.

Mr. PODESTA. No, sir.

Mr. GEARAN. No, sir.

Ms. CAPUTO. No, sir.

Mr. BARRETT. Thank you. I hope that puts that issue to rest.

Mr. Stephanopoulos, I'd like to talk to you briefly about the whole issue of Jay Stephens, because it's one—like many other members here, I just about went off the wall when I heard Jay Stephens was named as someone who is going to be looking into this. Why don't you tell us how many U.S. attorneys there are?

Mr. STEPHANOPOULOS. I think there are about 100 U.S. attorneys.

Mr. BARRETT. And when President Clinton was elected, what did he ask each and every U.S. attorney to submit?

Mr. STEPHANOPOULOS. As President Bush and Reagan, all the predecessors did, he asked for the resignation of each U.S. attorney.

Mr. BARRETT. And as with President Bush and President Reagan, what did each and every U.S. attorney do?

Mr. STEPHANOPOULOS. Each and every U.S. attorney submitted his resignation. All of them did it quietly, with the exception of Mr. Stephens, who went on a public attack on the President immediately after the resignation.

Mr. BARRETT. So when President Reagan replaced 99 U.S. attorneys, when—President Bush probably did not replace as many. When President Clinton replaced 99 U.S. attorneys, no one raised a stink other than Mr. Stephens, who held a press conference.

Why don't you tell us what the press conference entailed?

Mr. STEPHANOPOULOS. Well, he not only did a press conference, he also went on several national news shows, including "Nightline," and he proceeded to accuse the President—and I believe this is a quote—of "obstruction of justice," or something to that effect, similar phrase, because he asked for his resignation.

Mr. BARRETT. And what was this in connection with?

Mr. STEPHANOPOULOS. I am not certain exactly what it was in connection with. I think it may have been because Mr. Stephens was, at the time, or had been, involved in the Rostenkowski prosecution.

Mr. BARRETT. Just to make the record straight on that, what subsequently happened with the new U.S. attorney?

Mr. STEPHANOPOULOS. The new U.S. attorney who was appointed by President Clinton subsequently followed through on the prosecution, I believe. As others know, there has been an indictment in that case.

Mr. BARRETT. So that, in essence, his claim was groundless?

Mr. STEPHANOPOULOS. It certainly appears to be at this time.

Mr. BARRETT. And following that, why don't you tell us a little bit about his political career?

Mr. STEPHANOPOULOS. Well, immediately after he resigned as U.S. attorney, he immediately looked into a Senate race as Republican candidate for Senator from New Jersey—in Virginia, I believe. He pursued that candidacy for some time before he dropped out for several months.

He also previously, I believe, had worked in either the Reagan or the Bush White House. And he had been on many high profile prosecutions.

Mr. BARRETT. I will tell you that I would bet every single person on both sides of the aisle, and Mr. Sanders as an Independent, if we had a situation like that and had that person investigating us, we would have been quite angry. So I think that your response was a human response.

I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back the balance of his time.

Mr. Grams.

Mr. GRAMS. Thank you, Mr. Chairman. Before I yield my time to Mr. Knollenberg, I just want to point out, it seems funny how the White House and the administration were so glad in encouragement and high praise for Mr. Fiske, a Republican, but somehow because Mr. Stephens is a Republican, he somehow doesn't measure up to the standards. I find that contradictory.

I'd like to yield the balance of my time——

Mr. STEPHANOPOULOS. Sir, if I may. The issue is not that Mr. Stephens was a Republican. The President has appointed many Republicans to high positions in his administration. And he courted Republicans actively, he wants the votes and support of all men, Republicans, Independents, and Democrats.

Mr. KNOLLENBERG. Would you start my clock later, Mr. Chairman?

Thank you.

Mr. STEPHANOPOULOS. The issue was Mr. Stephens had very publicly criticized the President, and not only criticized but had accused him of a crime.

Mr. KNOLLENBERG. Thank you.

I think, just going back to a point Mr. LaRocco made, a very good couple of points a couple of times back in his question, the fact is that the criminal referrals have never been leaked. They have never appeared in the paper. And yet the purpose of all these meetings was that they were going to be leaked. And I just note this important point.

I'd like to focus on some questioning for Mr. Stephanopoulos, and because my time is somewhat limited I'll ask you to, if you would,

keep your answers short. I promise I won't ask you anything about Jay Stephens.

Mr. STEPHANOPOULOS. I'll do my best.

Mr. KNOLLENBERG. In fact, if you can just keep it to a simple yes or no, that would help.

In September 1991, you were one of the first top advisers hired by the President for his campaign. Is that correct?

Mr. STEPHANOPOULOS. I was actually hired in October. I interviewed with the President in September.

Mr. KNOLLENBERG. Your title now is Senior Advisor to the President. Is that correct?

Mr. STEPHANOPOULOS. Senior Policy Advisor, yes.

Mr. KNOLLENBERG. Thank you. You told the staff last night that you meet with the President on an informal basis daily. Is that correct?

Mr. STEPHANOPOULOS. Not every day. I—generally, if the President is in Washington, I will have some sort of meeting with him at some point during the day. Sometimes more than one; sometimes not. I generally do not travel with him.

Mr. KNOLLENBERG. But you do it daily as much as you can?

Mr. STEPHANOPOULOS. As much as he wants me to.

Mr. KNOLLENBERG. Were you aware in advance of the so-called heads-up meeting that took place on September 29, 1993?

Mr. STEPHANOPOULOS. No, I was not.

Mr. KNOLLENBERG. You were not. Did Mr. Nussbaum tell about it afterwards?

Mr. STEPHANOPOULOS. No, he did not.

Mr. KNOLLENBERG. In fact, I believe you told our staff that you found out about this through the press.

Mr. STEPHANOPOULOS. That's the way I remember it, yes. I don't have any contemporaneous knowledge of that meeting.

Mr. KNOLLENBERG. Were you aware in advance of the October 14 meeting?

Mr. STEPHANOPOULOS. No, I was not.

Mr. KNOLLENBERG. Did any of the participants in that meeting tell you about it after the fact?

Mr. STEPHANOPOULOS. Not that I remember. No, sir.

Mr. KNOLLENBERG. In fact, I believe you told our staff that, again, you found out about this via the press?

Mr. STEPHANOPOULOS. That's the way I remember it. Yes, sir.

Mr. KNOLLENBERG. Were you aware again in advance of the February 2, 1994, meeting?

Mr. STEPHANOPOULOS. No, I was not.

Mr. KNOLLENBERG. Did any of the participants in that meeting tell you about it after the fact?

Mr. STEPHANOPOULOS. Not that I remember, sir, no.

Mr. KNOLLENBERG. In fact, I think you told our staff that you found out about it again through the press?

Mr. STEPHANOPOULOS. An inquiry from the press, that's right.

Mr. KNOLLENBERG. So in terms of establishing something here, in terms of Whitewater, you got most of your information the same place that we did.

Mr. STEPHANOPOULOS. Unfortunately, that's true. Most of the time the press was inquiring about this constantly and consistently, that is true, sir.

Mr. KNOLLENBERG. Let me go into something here, because it strikes me as a little bit odd that you are that close to the President. I want to go to a statement that appears in the March 8 *Washington Post.*

And you were quoted as saying, regardless of when they knew about the criminal referral, I am certain that the Clintons did not direct anyone to take any action based on that knowledge to interfere with the referral or interfere with the normal process at the Justice Department. Are you still certain of that statement?

Mr. STEPHANOPOULOS. Yes, I am absolutely certain.

Mr. KNOLLENBERG. Let me go to something else that concerns me a little bit in terms of your relationship with the President, what you do know or don't know.

I know Mr. Ickes made a comment—not a comment. But in his written testimony I think he also repeated it word for word. It goes to Mr. Altman, when Mr. Altman, of course, was in the business of the recusal.

You in this testimony from Mr. Ickes, it says, in any event, Mr. Altman asked what steps he should take to notify the President. And Mr. Stephanopoulos, I believe, suggested that he should write the President a note. Seems to me that Mr. Altman, who is not exactly a minor role player here, might be able to go directly to the President, but he came to you. Your advice was sought. You suggested he should write a note to the President.

Mr. STEPHANOPOULOS. Yes. I'm not even sure he asked my advice. I think I gave it to him.

Mr. KNOLLENBERG. Mr. Ickes has a belief that he has.

Here is what's strange to me. I could go on with a couple of comments. My time is going to get shot here in a minute. But let me get this whole story straight. Because, as close as you are to the President, you're telling me that you didn't know about the September 29 meeting, you didn't know about the October 14 meeting, you didn't know about the February 2, 1994, meeting—until, of course, you read about it in the papers.

Mr. STEPHANOPOULOS. I don't believe the President knew about them either. And, frankly, sir, I believe that proves exactly what we've been trying to say today, that this wasn't an issue that was of consuming interest to all of us in the White House all the time. Most of us are consumed with trying to pursue the President's legislative agenda, trying to get the Crime bill passed. And I would note that the Crime bill was passed in conference here. And that's the kinds of issues that we are working on.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KNOLLENBERG. In your own mind the President had done nothing to interfere with the investigation?

Mr. STEPHANOPOULOS. I'm 100 percent certain. And not only that, I think that anybody who watched this hearing today couldn't walk away thinking anything but that.

The CHAIRMAN. Ms. Furse.

Ms. FURSE. Thank you, Mr. Chairman.

Mr. Podesta, I understand on March 1, 1994, you attended a meeting with several members of the White House counsel's office at which concerns with respect to three aspects of Mr. Altman's February 24 testimony before the Banking Committee, the Senate Banking Committee, were discussed. Could you identify for me the three areas that were discussed and summarize for us that discussion?

Mr. PODESTA. Yes, Ms. Furse.

The first concern was how the meeting had been set up. I believe Mr. Altman testified in the Senate Banking Committee that he had requested a meeting with Mr. Nussbaum. Mr. Nussbaum felt that that wasn't accurate and that he had been asked to attend a meeting but that Mr. Altman had not requested the meeting with him.

Second, the issue was raised on—had been raised, first, over the weekend by Mr. Eggleston with me, and we decided to defer until Mr. Nussbaum returned the question of whether in his answer to—Mr. Altman's answer to Senator Gramm's question—whether the subject of recusal should be added to the record. It was not in Mr. Altman's original answer to the question.

And, finally, as I think I've testified already today, the question I think which was identified by Mr. Sloan was in response to Senator Bond's question about how the White House learned of the criminal referrals. Mr. Altman had said he had no knowledge of that—or words to that effect. And Mr. Bond followed up with a question, saying—and Mr. Altman repeated that essentially same answer in the testimony on the 24th.

Ms. FURSE. Thank you, Mr. Podesta.

I yield back the balance of my time.

Mr. FRANK. Will the gentlewoman yield?

Ms. FURSE. Certainly.

Mr. FRANK. I appreciate that.

Because there was this colloquy before with Ms. Williams involving whether or not there was a direct conflict between her and Mr. Altman.

I just wanted to recall—I've had my recollection refreshed—but it was in the record and Mr. Cutler's statement of Tuesday. On page 4, Mr. Cutler says Mr. Altman recorded an impression that the White House was trying to negotiate limits. Mr. Altman confirmed to us, the White House counsel, that neither Mrs. Williams nor anyone else at the White House ever told him or implied that. So what you have is a question of an impression.

But I think this makes it clear there is no direct conflict on this point. And in the testimony between Ms. Williams and Mr. Altman, Mr. Altman is now saying that this is his impression that he got. Now, he will be here before us to talk about it, but I did think, in fairness to Ms. Williams, it ought to be in the record——

Mr. KING. Will the gentleman yield?

Mr. FRANK. I'll yield to the gentleman from New York.

The CHAIRMAN. The gentleman doesn't have the time. Ms. Furse has the time. Will Ms. Furse yield?

Ms. FURSE. I will yield.

Mr. KING. Thank you.

I'll just make a quick point that Mr. Altman's diary was a contemporaneous recollection. This statement that, yes, he gave to

someone who gave to Mr. Cutler came 5 or 6 months after the fact. And, of the two, I would think that the recollection made that day is more significant than the changed testimony.

Mr. FRANK. Will the gentleman yield back to me?

Ms. FURSE. I will yield to Mr. Frank.

Mr. FRANK. Let me say that the problem with that is that Mr. Altman himself says he—yes, that was contemporaneous. But what was contemporaneous was an impression, not a direct quote.

All I'm saying is people can often get this—they can be at odds, but Mr. Altman did not in his diary, I understand, because I haven't read Ms. Williams' wastebasket so I don't know what was in his diary, but Mr. Altman did not say directly, Maggie Williams told me. He said contemporaneously that that was an impression he had gotten.

Ms. FURSE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentlelady yields back the balance of her time. Mr. Bachus.

Mr. BACHUS OF ALABAMA. Mr. Chairman, before using my time, I notice they've started the clock, but I'd like to make a parliamentary inquiry if I could. Would it be proper to inquire as to when Mr. Altman will be scheduled to testify? If the Chair knows.

The CHAIRMAN. At this time, we are in the process of trying to formulate what the program will be for next week. So we're not ready yet to say precisely when.

Mr. BACHUS OF ALABAMA. All right. Thank you, Mr. Chairman. And I would appreciate having my entire time. I know the light's been on.

Mr. FRANK. Were you planning to leave town at any time next week?

Mr. BACHUS OF ALABAMA. About 2 minutes from now.

The CHAIRMAN. Let's start the time now and recognize Mr. Bachus.

Mr. BACHUS OF ALABAMA. Thank you, Mr. Chairman.

I want to say to the entire panel that I appreciate your appearance before us. You serve in important positions, and I think your positions are evidence of both your achievement and your intelligence and your industry. So I do appreciate your appearance.

And I think that you have tried to be sincere, by and large. And it's hard for me to make that judgment.

And I do want to also say that I don't think that your appearance here today is any indication that you're guilty of any crime or ethical violation, especially Ms. Caputo. There was some reference that you—some accusation had hurt your profession. I am sorry for that, if it is an accusation. I am not familiar with it. But——

Ms. CAPUTO. May I answer?

Mr. BACHUS OF ALABAMA. Yes.

Ms. CAPUTO. I would just like to say for the record that I am happy to participate in this process and get the facts out. Because I, as a public servant, think that it's important that the American people know what the facts are instead of rumors and misinformation that appear in the press.

Mr. BACHUS OF ALABAMA. Right. And I think we all share that. I hope we do.

I am going to yield to Mr. Baker at this time—of Louisiana—but I appreciate that.

Mr. BAKER. Thank the gentleman for yielding.

I wish to move on quickly. I have a little time left, and I want to direct my questions to Mr. McLarty.

As the Chief of Staff, long time political ally of the President, personal friend, kindergarten buddy, you have a unique position in the Presidency of Bill Clinton. In your testimony or witness interviews you indicated a series of important observations, because your recollections could be extremely useful to us in understanding what, in fact, if anything, is happening within the White House with regard to this matter.

With regard to the events of fall, 1993, you don't recall discussions with Mr. Lindsey about criminal referral in the period of September 29 to October 14. You don't recall if you were with the President on a trip out West during which Mr. Lindsey received the phone call concerning these criminal referrals.

You heard something of a sort—I have to go on, sir. I am sorry. You heard sort of a Justice Department review, but you think it came first through newspaper information, not direct knowledge by personal notification. You weren't aware of the fall meetings in the White House with regard to these matters.

You don't recall in January that Cabinet meetings were held on Whitewater by the President, nor recall telephone calls from Mr. Bentsen to Mr. Stephanopoulos concerning matters relating to Whitewater.

Concerning the now notorious February 2 meeting, you had the meeting, organized by Mr. Altman in your office, but you designated Mr. Ickes to represent you there in that meeting, so you were not participating in that particular event. But with regard to the day after the February 23 hearing, you were told by staff subordinates that the testimony of Mr. Altman may need to be amplified about the September meeting, but you do not recall being in any meetings, briefings, and discussions on the subject of the Altman testimony.

These are your current statements with regards to your recollection, so—I only have a couple more to sort of clear the record with regard to what you do recall.

There was a memo dated January 7, 1994, which was titled "Synopsis of Whitewater/Madison Guaranty matters." It was 40 pages in length. I wish to know, do you have any knowledge of that memo? Do you recall it?

Mr. MCLARTY. If that's—is that your question, Congressman?

Mr. BAKER. That's my question.

Mr. MCLARTY. Could you repeat it, please?

Mr. BAKER. Yes or no?

Mr. MCLARTY. Could you repeat the last question, the date of it?

Mr. BAKER. I'm sorry I sound like I'm speaking to you, I recognize I was speaking a little fast. "Synopsis of Whitewater/Madison Guaranty matter" is labeled Whitewater—excuse me, labeled White House Document Number 1, 40 pages in length. Have you seen it? Yes or no.

Mr. MCLARTY. I don't recall whether I have seen it or not.

Mr. BAKER. I expected that.

Do you recall getting weekly briefings from the Secretary of the Treasury with regards to matters of importance, most of which included Whitewater, Madison Guaranty, RTC matters? Do you recall getting weekly briefings?

Mr. MCLARTY. I get weekly briefings from all Cabinet Secretaries, and I get a weekly briefing from Secretary Bentsen.

Mr. BAKER. Do you recall getting a memo from your staff assistant relative to a press release of Mr. Bentsen notifying you of a specific action? It was dated March 3. You would have received it the afternoon of March 2, morning of March 3, relative to that press release setting out new standards with regards to disclosure of Whitewater information?

Mr. MCLARTY. I believe I recall the memoranda, Congressman. Without seeing the memoranda, it's difficult to recall the specifics.

Mr. BAKER. I understand. I'll help you. What it basically says is there is a note on the bottom of that memorandum, it says, Mac——

Mr. MCLARTY. That's why I was confused.

Mr. BAKER. This will cover it. Based on your lack of recollections in the subject matter, I'm sure you were confused. You didn't know if they were talking about a blanket or whether they were talking about political actions, when they said this ought to cover us.

My point here is that as the President's Chief of Staff for a long period of time, a trusted political confidant, and—I'm sorry. I'm just about out of time. I didn't set the rules, but I've got to live with them, as seems as though——

Mr. LAROCCO. Mr. Chairman.

Mr. BAKER. Those appropriately in the White House——

Mr. LAROCCO. Mr. Chairman, can the transcriber get this? It's going so fast I am afraid that this hearing is not going to be properly——

The CHAIRMAN. The gentleman is not recognized.

Mr. BAKER. Did I get that little bit of time back?

The CHAIRMAN. The gentleman's time has expired.

Mr. BAKER. Mr. Chairman, I was interrupted before my time had expired. Just wanted to conclude.

The CHAIRMAN. My impression is that you were far from being interrupted.

Mr. BAKER. I would hope that was the case. I just wanted to know if Mr. McLarty ever discussed the Whitewater matter, Resolution Trust, Madison Guaranty matter with the President of the United States at any time and what did he tell him?

The CHAIRMAN. The gentleman hasn't given the witness an opportunity to put in a word edgewise, much less respond to the rather convoluted question.

Mr. BAKER. I can explain it——

The CHAIRMAN. If there is a question.

Mr. BAKER. I can explain it more simply, Mr. Chairman, but I'm sure Mr. McLarty can follow.

Mr. MCLARTY. I think the Congressman talks as fast as anyone I've ever met from Louisiana.

Mr. BAKER. You don't wish to answer?

Mr. MCLARTY. I am sorry. It was a little convoluted. Your question?

Mr. BAKER. Just one. Did you, as Chief of Staff and a trusted political confidant, ever speak with the President regarding Whitewater, Madison Guaranty, or RTC matters—including criminal referrals; and what was your advice?

Mr. MCLARTY. Well, the matter came up with the President, Congressman, mostly in the context of press inquiries. And, from that standpoint, I kept the President apprised of certain matters that would come up in the press. But not in any substantive way of affecting in any way any RTC decision.

The CHAIRMAN. The time of the gentleman has expired.

Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Mr. McLarty, what do you believe your duty was to the President during the period in question here today?

And, second, do you believe that you violated your obligation to the Nation and the Constitution in carrying out that duty?

Mr. MCLARTY. My duty to the President was to serve him and the people of this country to the very best of my ability in my role as Chief of Staff, and the same is true in my new role as counselor to the President. And, no, I do not believe I violated any law or ethical standard.

Ms. VELAZQUEZ. Thank you, Mr. McLarty.

Ms. Williams, you have an extensive background in the field of communications. I understand that after you had graduated with honors from Trinity College, you obtained a Masters Degree in communications from the highly regarded Walter Annenberg School of Communications and that you served as communications director of the Children's Defense Fund.

I understand you are highly regarded at the White House for your skill in this area. Would you explain your role in that regard as an Assistant to the President?

Ms. WILLIAMS. As an Assistant to the President, I, of course, report to the Chief of Staff to the President. And, essentially, at his invitation I am involved in whatever meetings that he wants me to attend. And I'm involved in whatever work group that he wants me to attend.

Additionally, my colleagues call on me from time to time. I'm in constant communication with Mark Gearan, the Director of Communications. We talk about a lot of issues.

Ms. VELAZQUEZ. Why would you have been consulted on or notified of the press inquiry?

Ms. WILLIAMS. Because of my background in communications it would seem feasible.

Ms. VELAZQUEZ. I yield back the balance of my time.

The CHAIRMAN. The gentlelady yields back the balance of her time.

Mr. Huffington.

Mr. HUFFINGTON. Mr. Chairman, I yield to Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

We've been here a long time. I guess you and I are a little more chronologically advantaged than some of these guys, so we can take it better than some of them. Thank you.

I would like to ask a couple of questions of Mr. Gearan, if I might. As I understand it, and you answered to some degree ear-

lier, you had called Mr. Nussbaum or someone to set up a meeting. And you said you didn't really recall that. Was that true?

Mr. GEARAN. Congressman, it is true that I don't recall the circumstances of how the meeting was called for. I'd love to take credit for the fact that it was properly established with the advice of the White House counsel, but, frankly, Congressman——

Mr. JOHNSON. Do you remember going to it, though, the next day?

Mr. GEARAN. Congressman, I attended the meeting on October 14 for 10 to 15 minutes, yes, sir.

Mr. JOHNSON. OK. And according to our interviews with you, you don't remember what the garish report is, you don't recall what the reference to Hubbell was, you don't recall the discussion of checks, and so forth, the mention of Republican information that was obtained or contained in the Lindsey memo. You don't remember any of the phone logs that were referenced in the documents.

I'm wondering what you do remember. You don't even know who David Hale is, even though he was mentioned in the documents, or why Kennedy was copied on the memo. Why were you there?

Mr. GEARAN. Congressman, it's a fair question. I've——

Mr. KENNEDY. You want me to tell you why I was copied on the memo, Mark, or what?

Mr. GEARAN. Spent a fair time thinking about that since October 14. Congressman, what I do remember for that day—from that day—was that it was a very busy day in the White House, on October 14. As others have mentioned, that was a day when the President was dealing with Somalia. That was the day that Chief Warrant Officer Michael Durant was released in Somalia. That was the day that the Justice Minister in Haiti was assassinated.

I can recall quite vividly that day, the fact that I had over 100 phone calls to——

Mr. JOHNSON. Let me stop you for a moment. I don't think we need a history lesson. Thank you.

But we're time limited, as you're aware, and I think you want to go home, as I do.

But you were there as a communications officer, I understand, and it was a press deal to try to get your story straight, I think. Why would the White House counsel and Treasury counsel be invited to a meeting like that?

Mr. GEARAN. Congressman, the meeting was held in Mr. Nussbaum's office. As has been mentioned and as I've testified, the purpose of the meeting was to discuss inquiries that the Treasury Department was receiving from the press.

Mr. JOHNSON. OK. And, theoretically, came up with a press decision after that—or strategy, is that true?

Mr. GEARAN. I was not asked to do anything at that meeting. Mr. Lindsey's memorandum reflects that the Treasury Department had the ball at that point.

Mr. JOHNSON. Well, maybe it's because, according to some of the staff, you were probably about to fall asleep there, and maybe you don't remember it for that reason. It was a tiring day, wasn't it? Let me——

Mr. GEARAN. There are long days, they're tiring.

Mr. JOHNSON. Let me switch to Mr. Stephanopoulos, if I might.

You keep saying that you got your information on the Whitewater incident from the press. And yet in a March 8 *Washington Post* you were quoted as saying, regardless of when they knew about the criminal referral, I am certain that the Clintons did not direct anyone to take any action based on that knowledge, to interfere with the referral or interfere with the normal process at the Justice Department. That doesn't sound like a press response.

Mr. STEPHANOPOULOS. Well, sir, I think the date of the article you just pointed out was quite important. You said it was March 8. This was after all of the meetings had been reported in the press.

Subsequently, I believe that on March 7, I'm certain what happened that day is I got an inquiry from the press. I asked the President, did any of—were any of these—did you take any action pursuant to this? He said, absolutely not. I conveyed that to the press.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Fields.

Mr. FIELDS. Thank you, Mr. Chairman. And let me also thank the members of the White House staff for being here today, and I know there are many more important things you can be doing, like taking care of the business of the country and not sitting at a White House—Whitewater hearing.

Will you let me ask—let me ask—say to you, Ms. Williams, I've been—I know your credibility and your credentials are undisputed and unquestionable in my mind, and I've really always been impressed with your ability to move things forward. And I want to apologize for the little brief badgering period that took place here.

But, certainly, anybody who questions your integrity or your ability to tell the truth certainly does not know you well—not only not know you well, not know you at all.

Let me ask a question to Mr. Lindsey. There's a couple of things that I would like to clear up real quickly.

The memo, Mr. Lindsey, that you sent on the 20th—and you cc three people: Ms. Williams, Bill Kennedy, as well as Mark. There was a reason for ccing them, I am sure, these individuals. Let me ask you, are you familiar with Ms. Williams' background—extensive background in the area of communications?

Mr. LINDSAY. Yes, I am.

Mr. FIELDS. And was this memo related to the—the bulk of this memo dealt with press inquiries and things that were reported in different newspapers; is that correct?

Mr. LINDSEY. Yes, it did.

Mr. FIELDS. So would that be one of the reasons why you cced Ms. Williams?

Mr. LINDSEY. Well, it could have been, but I am afraid that was simply a mistake.

As I indicated earlier, I had prepared another memo, approximately a week earlier, based upon a conversation I had with three or four reporters from the *Washington Post*. At the end of that memo—at the end of that meeting, they asked me specific questions, to get the answers to.

One of them, frankly, had to do with whether or not in the Jim Guy Tucker-Bill Clinton meeting, whether Whitewater or Madison came up. I asked the President of the United States, and he told me no.

One of them related to a question to Mrs. Clinton. I sent that memo to Maggie for her to get a response to that question. A week later when this memo was typed, I believe my secretary probably copied the same three people that were copied on the earlier one. If I saw it before it went out, I would have told her that that was an error.

Ms. Williams states she doesn't remember getting it. That is possible because I may have told my secretary not to send them.

Mr. FIELDS. Well, let me ask you this. Is it compulsory when you send out memos—when you sent out this memo, was it required to sign once one received the memo?

Mr. LINDSEY. No.

Mr. FIELDS. So if Ms. Williams would say today that she did not receive that memo, you would have to say that she could absolutely be correct in that regard?

Mr. LINDSEY. Absolutely.

Mr. FIELDS. My next question, Ms. Williams, to you. Would you do anything illegal or unethical for the First Lady?

Ms. WILLIAMS. No, I would not.

Mr. FIELDS. Has the First Lady ever asked you to do anything illegal or unethical?

Ms. WILLIAMS. No, she has not.

Mr. FIELDS. Has the President ever asked you to do anything illegal or unethical?

Ms. WILLIAMS. No, he has not.

Mr. FIELDS. Would you do anything illegal or unethical for the President?

Ms. WILLIAMS. No, I would not.

Mr. FIELDS. Let me ask you the question of there's some talk about an envelope that you received. At the time that you received this envelope, what was taking place at the White House at that time as relates to issues?

Ms. WILLIAMS. Well, primarily health care.

Mr. FIELDS. Let me ask, would you say you're a focus person or would you say that you deal with—let me put the question another way. You manage not only the operations of the First Lady, which includes about 7 to 13 people. How many people do you——

Ms. WILLIAMS. Thirteen people.

Mr. FIELDS. Thirteen individuals on the staff.

Thirteen individuals on the staff. So you need not—you have to not only keep the First Lady focused, you have to also keep the staff focused as well; is that correct?

Ms. WILLIAMS. Yes, I believe that is my responsibility.

Mr. FIELDS. And in keeping the First Lady, as well as the staff focused, do you have time to indulge in anything other than the issues and to keep the First Lady on the track that you feel that is in the best interests of the American people?

Ms. WILLIAMS. I have very little time to do anything else.

Mr. FIELDS. How would you, let me ask you, on a scale of 1 to 10, grade Whitewater and health care?

Ms. WILLIAMS. With 10 being the lowest?
Mr. FIELDS. With 10 being the highest and 1 the lowest?
Ms. WILLIAMS. One, Whitewater.
Mr. FIELDS. And health care?
Ms. WILLIAMS. Eleven.
The CHAIRMAN. The time of the gentleman has expired.
Mr. Castle.
Mr. CASTLE. Thank you, Mr. Chairman. I yield to Mr. Huffington.
Mr. HUFFINGTON. Miss Caputo, Mr. Ketsanos of the RTC was the voice at the other end of that other telephone call that you received. He has stated that during your telephone conversation with him you said that Hillary Rodham Clinton had never met with the RTC attorneys regarding Madison. Given that, you began working for Mrs. Clinton in 1992, how could you have been so certain?
Ms. CAPUTO. Congressman, I don't recall saying that to Mr. Ketsanos.
Mr. HUFFINGTON. Had Mrs. Clinton ever briefed you about the failure of Madison Guaranty?
Ms. CAPUTO. No, she has not.
Mr. HUFFINGTON. Did you tell Mrs. Williams or Mrs. Clinton about the telephone call from the RTC?
Ms. CAPUTO. No, I did not.
Mr. HUFFINGTON. Were you ever contacted by the First Family's personal attorney regarding matters related to Madison?
Ms. CAPUTO. No, I have not been. I have talked to Mr. Kendall from time to time to get information necessary to respond to press inquiries. I do not believe that any of these conversations concerned a subject of these hearings.
Mr. HUFFINGTON. Did you tell anyone else in the White House or elsewhere about the phone call from the RTC?
Ms. CAPUTO. No, I did not.
Mr. HUFFINGTON. Miss Caputo and Miss Williams, I have a diary entry from Roger Altman dated January 4, 1994, which was referred to earlier, and which says, "Maggie told me that Hillary Clinton was—" and I quote, "—paralyzed by this. If we don't solve this within 2 days, you don't have to worry about her schedule on health care." It goes on to say, "Maggie's strong inference was that the White House was trying to negotiate the scope of the independent counsel with Reno and having enormous difficulty. HRC doesn't want the counsel poking into 20 years of public life in Arkansas."
Miss Caputo, have you ever been in any meetings or discussions or have any knowledge whatsoever in which the White House tried to negotiate the scope of the independent counsel?
Ms. CAPUTO. No, sir.
Mr. HUFFINGTON. As I understand it, Miss Williams denies saying those former words. Did Miss Williams ever express to you that the First Lady was "paralyzed by this"?
Ms. CAPUTO. No, she did not.
Mr. HUFFINGTON. Miss Caputo, did Mrs. Clinton ever use that term with you in any context?
Ms. CAPUTO. No, she has not.
Mr. HUFFINGTON. Miss Williams, did you or did you not tell Mr. Altman that Hillary Clinton was "paralyzed by this"?

Ms. WILLIAMS. I don't recall ever saying that to Mr. Altman.

Mr. HUFFINGTON. Miss Williams, why do you suppose Mr. Altman would make a contemporaneous entry in his diary like that if you never said any of those things?

Ms. WILLIAMS. You will have to ask Mr. Altman.

Mr. HUFFINGTON. Well, then, that is true, either you are telling the truth or Mr. Altman is telling the truth, but not both, and that is a problem.

Ms. CAPUTO. Mr. Chairman.

Mr. HUFFINGTON. Miss Caputo, who instructed you to prepare the document labeled, and I will show it to you, "Synopsis of the Whitewater Madison Guaranty Matter"?

Ms. CAPUTO. Congressman, I did not prepare that document.

Mr. HUFFINGTON. OK, that takes care of that. Many senior administration and agency officials have granted interviews with the Banking Committee. Were you asked to be interviewed by this committee?

Ms. CAPUTO. No, sir, I was not.

Mr. HUFFINGTON. I have some questions for some of the other members here.

Mr. Podesta, I want to follow up with a question for you. Why do you believe that you were told about one meeting, the February 2 meeting, but not the other two meetings in the fall?

Mr. PODESTA. Mr. Huffington, I don't really know the answer to that question. I think that Mr. Eggleston, in preparation for the hearing, came to his mind that he had participated in the meeting on February 2. I believe he raised it with me and I thought I took what was appropriate followup.

Mr. HUFFINGTON. I give back the balance of my time.

The CHAIRMAN. The gentleman yields back the balance of his time.

Mr. VENTO. Mr. Chairman, I would like to be recognized.

The CHAIRMAN. Mr. Vento.

Mr. VENTO. Mr. Podesta, the question comes up about the preparation. You were involved after the hearing that Mr. Altman had recalled one White House meeting and there was a subsequent series of letters that went out, and you were interested. What was your advice to Mr. Altman and others that were leading the effort when there was the discovery that Mr. Altman's testimony had been less than complete?

Mr. PODESTA. Mr. Vento, I called Mr. Altman after the meeting that we had in the White House on March 1. He wasn't there. He called me back. I didn't get it, I finally called him back. We didn't speak until well late in the afternoon or early evening; I think around 6:30 or 7 o'clock. I told him we had been discussing his testimony. I told him about the three issues we had raised.

I will give you the best recollection of what I said and he said, which was that on the first point that I went over I think earlier about who set up the meeting, I think Mr. Altman's recollection was that he had asked for the meeting with Mr. McLarty, and that I think that is what he said to me then, but when Mr. McLarty said who should be there he said Bernie Nussbaum. So he thought his testimony was accurate on the point of—as far as it goes, and I thought, and I think that the group who had met earlier thought

that this was an issue that, while it should be raised with Mr. Altman, wasn't of a significant level that needed to be supplemented.

With regard to the question of recusal, I believe he said to me that someone else had raised that with him already at Treasury. I don't believe he said who, that he had taken it under advisement, that it had been in his briefing book, note to mention recusal. He had just merely forgotten to do so.

Mr. VENTO. If I may just interrupt for a moment, Mr. Podesta, the point is that there was a series of meetings that were not reported. He reported a meeting and there was a series of meetings. The major issue here was that there was a series of letters that then came forward after. Apparently, you weren't informed of these, but Mr. Altman may have been and didn't remember most of these particular contacts.

Mr. PODESTA. That I think went to the third issue which was the fall meetings and how the White House learned about the RTC referrals. I raised it with Mr. Altman. We had a brief discussion about it.

I suggested that he get together with Miss Hanson, and look at the question Senator Bond asked and take action that would be appropriate. The next day he sent a letter to the committee referring to the two meetings that had taken place in the fall. That I think, in our mind, was the most serious matter. He corrected it the next day.

Mr. VENTO. Miss Williams, we appreciate your volunteering information to give us a sense of context in terms of what your feelings were about this incident. I think it is very helpful. As I look at this and look at it I don't really know how big the issue is.

Obviously, these are remembrances or impressions of Mr. Altman, and clearly one of the contacts with him that you had occurred after having learned of this from the investigation process from either the White House counsel, Mr. Cutler or from Mr. Fiske, you learned of this, these sort of representations in here. You were not happy about this, were you?

Ms. WILLIAMS. No, I was not.

Mr. VENTO. The point was that in his delivery of an envelope to you, was he sort of telling you that he was right and you were wrong; is that what your feeling was at that time?

Ms. WILLIAMS. I am sorry, I don't understand the question.

Mr. VENTO. Was he telling you by giving you this envelope that he was right and you were wrong about this particular inference; is that correct?

Ms. WILLIAMS. I had no interpretation, I am sorry.

Mr. VENTO. But you are not happy about that particular issue?

Ms. WILLIAMS. Unhappy would be mild.

Mr. VENTO. Well, not only that, but I think the statements made here, of course, are not inconsistent with your views because you have demonstrated repeatedly you thought the White House priorities ought to be health care, ought to be dealing with people problems, not necessarily the Whitewater matter. You want it to be out of the way; is that correct?

Ms. WILLIAMS. That is correct.

Mr. VENTO. Mr. Chairman, I think it is evident we will have some interest in questioning Mr. Altman on these matters, but I

think it is important. Mr. Ickes, with respect to the recusal issue, were those meetings and contacts initiated by Mr. Altman with regards to recusal?

Mr. ICKES. The meeting that I think you are referring to, Congressman, on February 2 was initiated by Mr. Altman.

Mr. VENTO. Is there anyone here at the table that initiated meetings themselves dealing with recusal and Mr. Altman?

Mr. ICKES. With Mr. Altman, not that I recall.

Mr. VENTO. So they were initiated. In a sense he was seeking advice and apparently received it. Thank you, Mr. Chairman.

[A chorus of noes from the panel.]

The CHAIRMAN. The time of the gentleman has expired. Did the witness wish to——

Mr. VENTO. I think they have all indicated in the negative, Mr. Chairman, that they did not initiate meetings.

The CHAIRMAN. Fine.

Mr. King.

Mr. KING. Before I yield to Mr. Leach, I just want to say to Ms. Williams that I stand by my line of questioning. I am sure you stand by your answers. You showed yourself more than able to speak for yourself, and I want the record to state, to show clearly that any anger that I showed in the dispute that Mr. McLarty mediated was not addressed toward you.

You handled yourself more than well and I want the record to show that there was no anger from me toward you. I stand by the questions, you stand by your answers, and with that I will yield to Mr. Leach.

Mr. LEACH. I thank the gentleman for yielding, and as the last minority questioner, let me just say in summary that the minority obviously chafes at the scope of these hearings and the exhaustive nature of investigating everything that doesn't touch the State of Arkansas, but I would like to return to a question that hasn't been asked on the scope of this panel, the contacts with the regulatory agencies, Treasury, and so forth.

One of these relates to criminal referrals, but there is a second circumstance by background that is unprecedented. That is, despite minority requests, documents have not been allowed to be turned over for congressional oversight. That is an unprecedented decision from the various regulatory agencies.

What I would like to ask you, did any of you in either a policy or a legal sense participate in any way in the decisionmaking that led the Treasury, and the regulatory agencies to deny the Congress of the United States, the minority in it, the document production that we have requested at various points during this last year? Did any of you?

All of you are saying no, there is no——

Mr. MCLARTY. No, Mr. Leach.

Mr. LEACH. Let me then just note that the minority began with an abstract case and we would like to return to it, and the abstract case is that no one is privileged before the law. We think that in this circumstance there has been a lack of appreciation for the criminal law process and that it is simply inappropriate to give insider notification to anyone who might be a party to a criminal probe.

In this regard, I would like to stress that it is not persuasive to suggest that simply because one gets a press inquiry that one has the right to intervene in the law enforcement process. That is a standard that has never been accepted and should not be accepted.

Now, having said that, as I have listened to all of you, I have thought in the background is another agenda item, the book entitled "The Agenda," which, as all of you know, is a critique of the White House. I will tell you as strongly as I can that based on your presentations today, I think it was an unfair presentation.

You have presented yourselves as very credible individuals who are working very hard to advance and defend your Presidency, and I think all of us ought to respect that to the maximum extent that we can.

I think something has been imperfect here, but that doesn't mean it reflects imperfectly on any individual or every individual, and it doesn't mean that it is the end of the world. This is, after all, a modest scandal in the background, and I can only stress again that it is a chafing, awkward circumstance that so much has gone into such a small part of a given situation. So, Mr. Chairman, on behalf of the minority, we would like to yield back the balance of our time.

Mr. FINGERHUT. Will the gentleman yield?

Mr. LEACH. Yes.

Mr. FINGERHUT. As the gentleman may know from my line of questioning, I have agreed with him in earlier witnesses that a heads-up policy is a dangerous policy. The gentleman, in his statement, said that receiving a press inquiry when it was received does not give the White House the right to intervene criminally. I think the record needs to show that they did not intervene criminally after they received the press inquiry. I don't believe that is what the gentleman intended to say, but I think the record needs to be clarified on that.

Mr. LEACH. I appreciate that, but in terms of information gathering there is an intervention here. A heads-up was given with information that was transferred that related to people that had knowledge of the criminal referrals providing that information to people in the White House. That is very different than simply a press inquiry about criminal referrals.

Mr. FINGERHUT. If the gentleman would further yield and whatever time, I think the ordinary citizen's understanding of the word, "intervening" in the criminal process would be interpreted to mean that somebody tried to get somebody who had criminal power to lay off and nothing of that nature happened. I will yield back.

Mr. LEACH. If the gentleman would yield back, I would like to accept what the gentleman has said in that regard. I think it is very important that that clarification be made.

Mr. FRANK. Will the gentleman yield to me?

Mr. LEACH. The gentleman is precisely correct, and certainly if there is any effort tried, as Mr. Cutler indicated, it didn't work.

Mr. FRANK. Will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired. The Chair will say this because I think the gentleman from Iowa wouldn't want to make a statement that is inaccurate, the gen-

tleman states that his request for documents from agencies and their denial is unprecedented. It is not.

As a matter of fact, the gentleman is in litigation on that point. The gentleman requested certain documents from executive agencies. They were denied on the basis they were privileged and if in the name of the committee through the chairman the request was made, they would consider. Since the documents requested were in contravention with our commitment to observe the integrity of Mr. Fiske's inquiry, we then answered the agency's inquiry negatively by saying that we were not making such a request.

The gentleman is in court, the matter is going to be decided. It is in litigation, but I think it is hardly unprecedented as the gentleman's lawyers will tell him as they have argued their case before the court. I think we have it clarified.

Mr. Orton.

Mr. ORTON. Thank you, Mr. Chairman. I appreciate the opportunity. Welcome to the witnesses. I will be as brief as I can. A great deal of time and effort has been spent here in trying to tie down when Mr. Lindsey may have been briefed and when he may have briefed the President with regard to this specific information. I have reviewed through the transcripts of our hearing on Tuesday and this hearing today, and I think this whole issue culminated in the one allegation raised by Mr. McCollum this morning, and I will quote specifically from the record.

Mr. McCollum says, "Well, I am concerned about the compromise of this whole investigation by the President of the United States talking to Governor Tucker." In my mind that is a very serious allegation, that the President of the United States may have, in fact, committed a crime.

I think that theory has adequately been debunked by the letter from Mr. Cutler to this committee, including the copy of the agenda for the meeting of October 6 and the statement from Mr. Keith Mason, who had attended the meeting, the entire meeting, saying that none of that information was discussed in the meeting.

The theory goes on that even if the President didn't use it, it was wrong to inform the President of that information because he might inappropriately and unlawfully share that information with a target of a criminal investigation. That, in my mind, is a very serious stretch in order to say that that is the ethical violation. Then it has been suggested that, in fact, in the abstract it is wrong for the President to receive this type of information.

I recall there are a few reasons for which the President could receive such information within the conduct of his duty and the precedent I would cite would be Gerald Ford and Richard Nixon. President Ford received information about allegations of wrongdoing by Mr. Nixon. He then pardoned Mr. Nixon, and had full authority to do so.

If the President of the United States, President Clinton, had received this information about a criminal referral and had determined at that point in time to issue a blanket pardon for the Governor of Arkansas, would he not be within his legal rights to do so, Mr. Lindsey? Does he not have the power to issue that type of a pardon?

Mr. LINDSEY. Congressman, I never thought about that, but I think he probably does have that authority.

Mr. ORTON. I cannot imagine the President of the United States committing a crime to protect someone when he has the legal authority to pardon him outright.

Do any of you know of any law, statute, regulation, or ethical rule which would prohibit the President from receiving this information? Do any of you know of any such rule, law, regulation, anything that would prohibit the President from receiving this?

[There was a chorus of noes from the panel.]

Mr. ORTON. The question then goes to use of the information and the allegation is made that this President may have used that information inappropriately. I think that theory has been debunked, but the question then is whether it is ethical for the President to receive that information from his staff because he might use it in some inappropriate way.

Does the President of the United States receive any other kind of information that could be used and disclosed in an inappropriate way? I can imagine there are a number of things. Don't we at some point have to trust in the President and his staff?

Now, if there is some sort of evidence that the President of the United States violated the law, I want to see it. If not, then I think the record should clearly show that in fact—as Mr. Cutler and the grand jury has determined, there were no violations of the law, and as Mr. Cutler has determined, there were no ethical violations, and I would be happy to yield time to Mr. Kennedy.

Mr. KENNEDY. Well, I just thought in terms of closing what is obviously a very long day for all of you, and we appreciate the fact that you have taken the time to come before us in a very open and honest way, that maybe if Mr. McLarty wanted to have the last minute or two of the time that we have here this evening to address any of the issues if you can think of a single one that wasn't addressed. You are a better man than I, Mr. McLarty, but if you wanted to close with a minute or so of your thoughts about the proceedings, I would be happy to yield to you.

Mr. FRANK. He hasn't worked very hard today.

Mr. KENNEDY. To you.

Mr. MCLARTY. Congressman, the hour is late, I will be very brief. I hope we have conveyed and I feel we have respect for this committee and an openness and responsiveness to get the facts and the information out and respond to each of the committee members' questions.

We appreciate very much the conduct of this committee, your leadership, Mr. Chairman. This is not something that in some ways we look forward to doing, but we look forward to going back to our job, getting the people's work done, and I think that came across very clearly today. We took this matter seriously and we were open and responsive to committee members' questions.

Mr. KENNEDY. Thank you.

Mr. FRANK. Mr. Chairman.

The CHAIRMAN. Does the gentleman——

Mr. ORTON. I would be happy to yield to Mr. Frank.

Mr. FRANK. I thank the gentleman for yielding. I just want to deal with this issue of the percentage of the overall issue that this

represents because I do just want to bring people back to where we were.

When the original Whitewater questions came up, many people said, gee, Arkansas in 1985 probably wasn't very interesting then and it is certainly not very interesting now, and this does not affect the Clinton Presidency.

We then reached a point where allegations were made that the White House had used the Presidency and the Treasury Department to interfere, and I guarantee if people go back, they will see press reports, statements on the floor, elsewhere that said this, what we have just been talking about is the guts of the issue because this was the only allegation that the Clinton Presidency was somehow involved.

This was the only argument that said the powers of office have been misused, and many people said, all right, yeah, what happened in Arkansas in 1978 and 1979 and 1980 is not as essential. What we have been doing is a full and unfettered investigation of the only allegation that touched on the Clinton Presidency, and I think so far it has proven to be very little.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Hinchey.

Mr. HINCHEY. Well, it seems it is not over after all. I want to thank you along with others who have done so for the attention and good humor with which you have attended the questions of members of the Banking Committee today, and I thank you very much for that.

I just want to say that I have been surprised with the kind of criticisms which this administration, this White House has been subjected over the course of the last 18 months. It has been quite remarkable.

They have been subjected to criticism for doing the most routine things, like requesting the resignations of all the U.S. attorneys, which is something that every administration always does, this administration was criticized for that.

The administration was even criticized for having the temerity to want to choose the people who made its travel arrangements, which I thought was quite remarkable. But there is one thing—and that, of course, those kinds of things are done by every administration historically.

But there is one thing that this administration has done differently, and that is you have been very open, very open and above board, and extraordinarily cooperative with the Congress, particularly this committee.

There have been other investigations that have been carried on by this committee of other administrations, and those other administrations have exerted executive privilege when documents were requested. You didn't do that.

Those other administrations said that traditionally White House officials do not come to the Congress to testify. You haven't done that. You have made yourselves completely and totally available, and I am not a close historian of this kind of thing, but I suppose that there are people on this panel who know a little bit more about it. It seems to me this is unprecedented, Mr. McLarty.

Mr. MCLARTY. I am not a historian, either, but I believe your comments are correct and it is unprecedented.

Thank you for your words.

Mr. NEAL. Will the gentleman yield?

Mr. HINCHEY. Yes.

Mr. NEAL. I just wanted to note that what Mr. Leach said in summary, if I heard him correctly, he didn't say this, but really after millions of words written about this over many months, all sorts of insinuations and wild charges and so on, Mr. Leach summarized by saying we are left with a very minor scandal. Now, I must tell you the truth, I don't even know what that is. I wonder if Mr. Leach can tell me what that scandal is.

Mr. LEACH. Let me try to describe what has occurred and what hasn't occurred.

Mr. HINCHEY. I will yield to the gentleman.

Mr. LEACH. Thank you. The background of Whitewater is, simply put, the question of whether a public official improperly benefited from the infusion of funds into a company that he jointly owned with another party from a small business investment corporation as well as from a federally insured savings and loan. That is the issue.

There are symbolic issues that fall from it that relate to the whole history of the S&L debacle of the 1980's, but in a narrow sense that is what Whitewater is. In addition, it has taken a greater significance based upon the fact that we have not gotten full disclosure, full public accounting.

All the minority ever asked for in November 1993 was that we have a hearing on the subject. By hearing, the minority expected that would be something about Whitewater, what occurred in the State of Arkansas. Instead we have gotten unprecedented refusal to disclose documents, and a process in a hearing that is literally on a fairly narrow part of the subject, not that it isn't an——

Mr. HINCHEY. Mr. Chairman, Mr. Chairman.

Mr. LEACH. Whitewater has become more than just an episode, it has become a public disclosure issue.

Mr. HINCHEY. May I reclaim my time? I want to just use this last minute to try to clarify a couple of things.

First, let me ask you, Mr. McLarty, has this committee asked you for any documents which you have not provided?

Mr. MCLARTY. I have been fully cooperative with this committee as I think all the members of the White House staff have.

Mr. HINCHEY. Every document that has been requested of you has been provided?

Mr. MCLARTY. It has been.

Mr. HINCHEY. Did you voluntarily, all of you, make yourselves available to the staff, both majority and minority, of this committee for questioning prior to this hearing and obviously you made yourself available to the committee here today?

Mr. MCLARTY. We did both.

Mr. HINCHEY. Let me ask——

The CHAIRMAN. The time of the gentleman has expired.

Mr. HINCHEY. Well, Mr. Chairman, just 30 seconds more.

Mr. Eggleston had some experience that I think is appropriate to this because we have heard it said that this committee has limited

the scope of this hearing, and I think it is important to focus on that because what this committee is doing is very carefully not trying to interfere with a criminal investigation.

You have had some experience with Iran-Contra. You know that when the Congress interfered in a way that disrupted a subsequent criminal investigation, the result of that is that convicted felons are now walking the street. What advice would you have for this committee based upon your experience in the Iran-Contra proceedings, Mr. Eggleston?

Mr. EGGLESTON. Well, sir, unlike in Iran-Contra, everyone appeared here without requesting immunity. In that instance, as I recall, five members of the White House staff requested immunity before they would agree to testify before Congress.

Congress made a decision to grant immunity to those five people. I think more than five requested it. Congress made a decision to grant immunity to those five people, and Congress, frankly, it was my recommendation at the time that the members vote, and Congress came in under substantial criticism for that, and in fact as we all know, the convictions of a number of people were reversed, and irretrievably reversed as a result of that, and it seems to me that this committee is acting absolutely appropriately balancing the legitimate needs of this committee with the legitimate needs of Mr. Fiske to do the work that he is doing.

Mr. HINCHEY. They were reversed not because they were not guilty, but only on a technicality; is that not correct?

The CHAIRMAN. Time has expired.

We have one remaining member, Mr. Fingerhut.

Mr. FINGERHUT. This is the hearing that has more final statements than any we have ever attended. Let me just make a few points.

The first is, it is important, I think to respond very briefly to the dialog between Mr. Neal and Mr. Leach, and that is Mr. Leach is quite correct, there are questions that have been raised with regard to business dealings in Arkansas a number of years ago. Those are the subject of a criminal investigation now, and after that criminal investigation is completed, undoubtedly this committee will review the work of the special counsel, but there have been allegations made, and they have been made loudly in this body about whether or not the White House in a very serious charge intervened in a criminal activity.

That is what these hearings have been about, and they have been, I think, conclusive in demonstrating that that did not occur. I think that while it is tempting to be frustrated by the time we have spent here today, that we should look on these hearings as beneficial.

Indeed, having all of the chief advisers to the President present in public for this kind of questioning is extraordinary, but openness is its own reward, and while you may not be happy with every dialog that occurred here today and may not like the way the record looks with respect to every question and every answer, I do think that the process and the administration and the Congress have benefited from all the time you have put in.

Let me make one further comment, and I will give Mr. McLarty the final word, though it may not be exactly the way Mr. Kennedy

would have had it. I do think, though, that there has been some criticism directed at the overall conduct of this matter within the White House. It was directed initially by Mr. Cutler, who is now the counsel to the President.

I was a little surprised by Mr. Johnson's line of questioning to Mr. Gearan before who implied something improper about Mr. Gearan or whoever made the action having included the counsel's office in a contact about Whitewater. That was precisely the right thing to do, and the concern that I have, after listening to all of this, and that Mr. Cutler had in his testimony, which I won't read, but he articulated on page 10 his concern was that the White House did not move quickly enough to realize that when questions arose about Madison Guaranty, which was a business dealing in which the President and the First Lady were tangentially involved financially, which makes them—puts them on front street in that matter, that whistles should go off and red flags should go off, and from that point forward, all dealings happen at counsel's instruction and are as limited as possible to just those people who are necessary to be involved and the appropriate counsel between Treasury, RTC, and the White House.

That, I take it, was Mr. Cutler's criticism after he evaluated the actions of the White House. That, frankly, is my criticism after having heard all of the testimony of these last 2 days.

Mr. McLarty, you were the Chief of Staff throughout this period of time and until very recently. Do you agree? If you agree, what steps have been taken to see to it that these same types of circumstances don't happen again, and are you satisfied that we have moved to correct whatever are the questions that might have been raised in the public's mind over these last couple of days?

Mr. MCLARTY. Congressman Fingerhut, first, when Mr. Cutler joined the White House, I asked him to fully review this matter, which he has done in a very thorough and objective manner. I think he made a very careful analysis.

His points about carefully coordinating and channeling any contacts and activities through the counsel's office are well made. Those procedures are now clearly in place, and where possible to have a counsel-counsel relationship as he suggests is also very sound advice which will be followed.

Mr. FINGERHUT. I appreciate that, and I thank you all for your time.

I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back the balance of his time.

The Chair again, in the name of the committee, wishes to thank the witnesses and he is very grateful for the help and the assistance you have given this committee, and it is unprecedented, talk about unprecedented, that a Presidential White House main staff line has acceded to an invitation from a committee.

I know from our past experiences that we have been refused White House witnesses to appear, and so therefore we are grateful to you, and I believe that the record speaks for itself, and that your comportment and your expertise is very clearly established, and I particularly want to repeat my profound thanks for the fact that you, every one of you, the total collective group presented your tes-

timony in less than 1 hour, and the committee will stand adjourned until further call of the Chair.

[Whereupon, at 9:37 p.m., the hearing was adjourned.]

APPENDIX

July 28, 1994

STATEMENT OF THE HONORABLE JAMES A. LEACH
MADISON/WHITEWATER HEARINGS
JULY 28, 1994

Mr. Chairman, Tuesday we were treated to a remarkable performance by a remarkable individual. The White House Counsel cleared the White House staff of ethical improprieties associated with its contacts with the Treasury Department, the Resolution Trust Corporation, and implicitly with the President.

Mr. Cutler's presentation and responses to questions were masterful and compelling -- if you accept the fundamental premise on which they were based.

The Minority does not.

Seldom in the debates that reverberate through these halls has the difference in principle that divides the Minority from the Majority been as clear.

What divides us is not the possession of differing information, but the use of very different principles in the evaluation of that information.

Perhaps the most profound illustration of this phenomenon in the history of Western thought occurred in the shift from the Ptolemaic to Copernican view of the cosmos. Ptolemy was a second century A.D. Alexandrian astronomer and mathematician who, after careful observation of the heavens, concluded that the earth was the center about which the entire universe revolved. Because of Ptolemy's erudition and the way in which his theory made sense of the everyday observations of everyday people, his view was considered authoritative for over 1,000 years.

This all changed when the Polish astronomer Copernicus in the 16th century came up with the theory that the earth and all the planets revolve around the sun. On the basis of this revolutionary principle, the same facts and observations were seen in an entirely different way, and a whole universe of meaning -- the Ptolemaic -- was called into question.

It may be an exaggeration to draw an analogy in this context to mankind's understanding of the heavens, but the one great service yesterday's hearing performed was to place in stark contrast the principles the Majority and Minority are applying to the matter before us.

Mr. Cutler's exculpation of the White House in its conduct internally and in its contacts with the Treasury and the Resolution Trust Corporation is based on the premise that the President occupies a privileged position within our system of governance. From this premise follows what Mr. Cutler called "the heads-up principle," a principle he says "applies with particular force to criminal referrals by the RTC or other agencies to the Department of Justice."

If this premise with its attendant principle is accepted, then it follows -- as the Majority will undoubtedly state repeatedly from now on in these hearings -- that the White House, Treasury and RTC staff did nothing unethical in this entire matter.

But the Minority believes it is Ptolemaic politics to suggest that the White House is the gravitational center of the American legal system.

We believe the Administration misunderstands the nature of the American Revolution, which ruptured multi-millennia perception and precedent in establishing a constitutional checks and balances system, and the nature of the American experiment with democracy, which is singularly premised on the notion that everyone is equal before the law.

In America there are no pharaohs or kings.

What's under review is a fundamental law and order as well as constitutional issue.

In law enforcement little is more inappropriate than to give insider notification to individuals who may be parties to criminal probes. In the case of a powerful political figure, insider notification provides that individual the option either to attempt to sidetrack the investigation and/or frustrate it by warning other possible targets of the probe or by causing the possible destruction of documents or other evidence.

How this might come about is illustrated by Mr. Cutler's exchange with Mr. Lazio and Mr. King yesterday. Mr. Cutler stated that Mr. Lindsey had no knowledge of the possibility that Governor Tucker might be referenced in proposed criminal referrals until October 7, 1993, the day before the RTC sent them to the Department of Justice and the day after the President met with the Governor. Actually, according to the handwritten notes of White House Associate Counsel Cliff Sloan, Ms. Hanson, the Treasury General Counsel, informed Mr. Sloan on September 30 that Governor Tucker was a target of the draft referrals and that the Clinton 1985 campaign was listed as a co-conspirator. According to the record, Mr. Sloan briefed Mr. Lindsey who briefed the President on the referrals prior to the President's meeting with Governor Tucker.

Whether any obstructive effort was implicitly undertaken within the government in the wake of the insider notification that occurred, clearly it, as Mr. Cutler noted, didn't work. Whether any documents were tampered with, we don't know. What we do know is that the 1985 Clinton gubernatorial campaign records are no longer available and that the whole Whitewater affair has been hallmarked by a hide and, at least with regard to certain records in Arkansas, shred standard.

What we also know is that the President chose to meet with Governor Tucker, an individual who any lawyer with an awareness of the proposed referrals should have been ethically obligated to advise against meeting at that time.

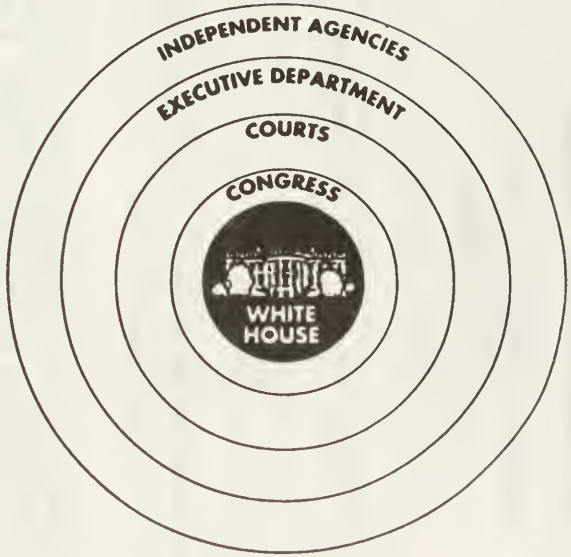
The implications of insider advantage being given any American, even the President, is

precisely why it was unethical for Treasury officials to brief the White House and precisely why, once informed, the White House Counsel's office was ethically obligated not to brief or precipitate the briefing of the President.

These notifications gave a single American a privileged position under the law and represented clear violations of then existing ethical rules, most specifically 3 CFR 100.735, which stipulates that a White House employee "shall avoid an action . . . which might result in, or create the appearance of . . . Giving preferential treatment to any person . . . Losing complete independence or impartiality . . . Making a Government decision outside official channels . . .or . . . Affecting adversely the confidence of the public in the integrity of the Government."

-- 30 --

Ptolemaic System



Ptolemaic Politics

STATEMENT OF BERNARD W. NUSSBAUM

BEFORE THE
COMMITTEE ON BANKING, FINANCE, AND
URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

103RD CONGRESS, 2D SESSION
JULY 28, 1994

Mr. Chairman, Mr. Leach, and Members of the Committee:

Introduction

I was Counsel to the President of the United States from January 20, 1993 until April 5, 1994.

I was deeply honored to serve my country. This was an extraordinarily challenging and rewarding position. I will never forget it, and I will always be grateful for the opportunity to serve.

We are here today to talk about issues which have significant consequences for the operation of the Executive Branch.

How should the White House Counsel conduct himself or herself when a federal agency is conducting an investigation that does, or might, involve the President?

Can there ever be any contact between that agency and the White House with respect to that investigation?

As you will see, I do not believe there is, or can be, any flat prohibition against contacts between the agency and the White House. Issues may arise in the context of such an investigation that implicate broader policy issues or, indeed, the proper functioning of the Executive Branch. In these circumstances, categorically to prohibit contacts with the White House would weaken the Presidency and do violence to the President's role in our constitutional scheme.

I am here specifically to discuss with you certain meetings I had with Treasury officials in September and October 1993 and February 1994 relating to the Madison/Whitewater matter. I will describe to you in some detail what happened during those meetings.

But I also wish to make it clear at the outset what did not happen. I did not, nor, as far as I am aware, did anyone else at the White House ever seek to direct the outcome of or interfere with that investigation. That would have been manifestly improper. That did not happen.

In my view -- and I hope yours when you understand what occurred -- these meetings were proper. They were proper

because, in ways I will describe, they facilitated the proper functioning of the Executive Branch. They enabled the White House to perform its official duties. They furthered legitimate public purposes.

I will explain to you what I was thinking as I took the actions I will describe. There are some who, looking back, disagree with my judgments. But I hope you will come to understand that throughout my term in office, I sought to conduct myself in the highest traditions of public service and of my profession. I believe I did so.

Let me turn to the meetings and contacts.

Meetings and Contacts

September 29, 1993. On September 29, 1993, I attended a meeting with Treasury officials, including Treasury General Counsel Jean Hanson, in my office. The meeting, convened by Treasury officials, concerned a report the Department was about to issue on the Waco incident. At the end of the meeting, Ms. Hanson drew me aside and asked to speak to me.

Ms. Hanson said that the RTC had made or was about to make criminal referrals to the Department of Justice related to an Arkansas savings and loan association. She told me that the

Clintons were not objects of the referrals, that is, they were not potential defendants. She said that one of the referrals related to certain checks that had gone to a Clinton gubernatorial campaign, there was a question whether these were proper contributions, and the Clintons were mentioned as possible witnesses.

Ms. Hanson said that she was telling me about the referrals because she believed that this information would soon leak to the press. She believed the White House should be in a position to respond effectively and promptly to press inquiries.

I called in Cliff Sloan, a member of my staff who had been at the Waco meeting. I asked Ms. Hanson to repeat to him what she had just told me. As she did that, Ms. Hanson added that she thought Deputy Treasury Secretary Roger Altman might previously have sent me some material relating to this subject. I told her that I did not recall that. (Sometime later, she told Mr. Sloan that she had been mistaken, and that Mr. Altman, in March 1993, had merely faxed to me a 1992 New York Times article concerning the Clintons' Whitewater investment. I subsequently found that article in my files. But I do not recall having received it.)

I asked Mr. Sloan to be Ms. Hanson's point of future contact if she needed to speak further with us regarding press inquiries.

That concluded the discussion with Ms. Hanson. It lasted about five minutes.

Following the discussion, Mr. Sloan or I told Bruce Lindsey what Ms. Hanson had told us. Mr. Lindsey, a senior White House advisor, at that time normally responded, on behalf of the White House, to press inquiries concerning Arkansas matters.

October 14, 1993. On October 14, 1993, a meeting took place in my office between Treasury and White House officials. Jack DeVore, an Assistant Treasury Secretary for public affairs, had called Mark Gearan, the Director of White House Communications, the day before to ask for the meeting. Mr. DeVore explained to Mr. Gearan that the Treasury had received press inquiries related to the Madison referrals. He wanted to explain how Treasury would respond. Mr. Gearan asked me if the meeting could take place in my office.

I had previously issued memoranda to the White House staff -- similar to those of my predecessors -- counseling that

contacts with agencies concerning pending adjudicative or investigative matters had to be cleared through the Counsel's office. We recognized that such contacts were potentially sensitive and that, as a general proposition, they should not occur. However, there was no flat prohibition.

We recognized that sometimes a contact would be necessary to enable the White House to discharge its official functions. In each instance, the Counsel's office was to be involved in order to ensure that the contact was limited to an exercise of official functions and did not entail any effort to interfere with or direct the outcome of the adjudication or investigation.

I agreed to the meeting that Mr. Gearan had described to me because I believed it would serve an official function. It was important for the White House to understand what the Treasury was going to say to the press, so that the White House could promptly and effectively respond to press inquiries it would inevitably receive.

The October 14 meeting was attended by Mr. DeVore, Ms. Hanson and Josh Steiner from Treasury, and Mr. Lindsey, Mr. Gearan, myself, Mr. Sloan and Neil Eggleston of my staff.

I remember Mr. DeVore explaining that Jeff Gerth, a New York Times reporter, was aware of referrals to the Department of Justice in the Madison Guaranty matter. He was asking why the referrals had been forwarded to Washington D.C. from Kansas City instead of directly to the United States Attorney's Office in Little Rock. Mr. Gerth apparently believed that the forwarding of the referrals to Washington was unusual and might suggest special treatment.

Mr. DeVore said he was going to advise Mr. Gerth that the referrals had been sent to the United States Attorney's Office in Little Rock before Mr. Gerth had called. A question was raised whether it was usual for the RTC to confirm criminal referrals. Mr. DeVore said that it was not usual, but it was done in certain circumstances. We were also told that Mr. Gerth was inquiring, and would likely ask the White House, about the endorsements on four cashier's checks from Madison to the Clinton gubernatorial campaign. In essence, all that we were told at this meeting is what the New York Times was saying to Treasury and what Treasury was planning to say to the New York Times.

With respect to the referrals mentioned in the September 29 conversation and the October 14 meeting, I never saw a copy of them. Nor did I ever ask to do so.

Early January 1994. In early January 1994, Joel Klein, the new White House Deputy Counsel, told me that at the Renaissance weekend in South Carolina, which Mr. Klein attended, the President had sought to have a brief conversation with Eugene Ludwig, Controller of the Currency, asking for advice as to how to deal with the recent flurry of Whitewater stories.

Mr. Klein said he told the President and Mr. Ludwig that it would be best if they did not speak about the matter. I told Mr. Klein I agreed and that he had done the right thing. At some later time, in a brief telephone call from Mr. Ludwig, I told him that I agreed with Mr. Klein.

I saw the President shortly thereafter. I told him I had heard about his brief conversation with Mr. Ludwig, and said it was also my view that he should not speak to Treasury officials about this matter. The President and I agreed that if there were any appropriate discussions to be had, they should be had by counsel -- either White House counsel if they involved official matters or private counsel if they concerned purely private matters.

February 2, 1994. The next contact I recall occurred on February 2, 1994. On that day, I received a call from Mr. McLarty's office asking me to attend a meeting that evening

in his office. When I arrived, I found Roger Altman, Ms. Hanson, Harold Ickes (the White House Deputy Chief of Staff), and Margaret Williams (the First Lady's Chief of Staff) in the room.

When I asked what the meeting would concern, I was told that Mr. Altman was going to brief us about the statute of limitations process being followed in the RTC's Madison Guaranty investigation. I then asked one of my staff, Mr. Eggleston, to join us.

At the outset of the meeting, Mr. Altman told us that he would be informing us about a process that had recently been discussed with members of Congress. He then described the RTC Completion Act, explaining that the statute of limitations with respect to civil fraud and intentional misconduct was due to expire on February 28, 1994 in the Madison matter.

He told us that the RTC would have to reach a decision by that date about whether there was a prima facie case of fraud or willful misconduct. He said the RTC would have three options: (1) bring a lawsuit if there was a good faith basis for one; (2) do nothing and let the statute of limitations expire; or (3) seek from potential defendants -- including possibly the Clintons -- tolling agreements extending the statute of limitations.

Mr. Altman said that the RTC investigation was headed by Jack Ryan, the RTC's Deputy Chief Executive Officer, and Ellen Kulka, the RTC's General Counsel. He told us that he had confidence in them and would be inclined to rely on their recommendations. He said that they had both recently come from the Office of Thrift Supervision (OTS). I said that I had heard of Ms. Kulka when she worked for the OTS and that she was one of a group of tough OTS litigators. (While I never personally met or dealt with Mr. Ryan or Ms. Kulka, I had had first-hand experience with the OTS, having represented a large law firm in some difficult and contentious litigation.)

Mr. Altman then turned to a subject that he had not previously identified as a topic for discussion. He said that he was considering recusing himself from the Madison Guaranty investigation. He said he had discussed this with Ms. Hanson and Secretary Bentsen, and they agreed it would be best.

Mr. Altman went on to say that he had received ethics advice to the effect that he was <u>not</u> legally or ethically required to recuse himself. This meant two things to me: first, that Mr. Altman believed he could in fact act impartially in the Madison Guaranty matter; and second, that Mr. Altman and his ethics advisor believed that his acting in the matter would not raise an appearance of partiality within the meaning of the relevant ethical standards.

Notwithstanding this ethics advice, Mr. Altman said he was inclined to recuse himself. Mr. Altman added that he did not believe his recusal would have any effect on the RTC's decision-making process, since he expected to follow the recommendations of the RTC staff in any event.

I felt that what Mr. Altman had said raised an important policy issue for the Executive Branch. I was concerned that Mr. Altman's recusal might set a bad precedent for the Clinton and future Administrations.

My experience as a lawyer has taught me that if a judge has a legal or ethical reason for recusing himself or herself from a matter under adjudication, he or she should promptly do so. But if there is no legal or ethical reason for recusal -- and Mr. Altman had said that there was no such legal or ethical reason -- then the individual should do his or her sworn duty.

This principle was eloquently expressed by Justice Rehnquist in Laird v. Tatum, when, shortly after he was appointed to the Supreme Court, he was asked to recuse himself from a case. After finding he was not legally required to recuse himself, he wrote that the duty of "a federal judge . . . to sit when not disqualified . . . is equally as strong as the duty to not sit where disqualified."

I believe that the same principle applies to the Executive Branch and regulatory agencies. Public officials should not have the option of avoiding their responsibilities simply because they are difficult, or inconvenient, or because the officials find it personally or politically expedient to step aside.

The public policy issue raised by Mr. Altman's possible recusal was not an academic one. It was then a matter of immediate concern to the Administration. Just the day before this February 2 meeting, a nominee for the chair of the FDIC, Ricki Tigert, had been asked by certain Senators on the Banking Committee to agree to commit in advance to recuse herself on any issues connected to Madison or Whitewater, for the ostensible reason that she knew the Clintons and was being nominated by the President.

Ms. Tigert had taken the position at the hearings that, if she were confirmed and asked to address Madison/Whitewater-related questions, she would consult the appropriate agency ethics officer and follow his or her advice. The inquiring Senators indicated that Ms. Tigert's response was not sufficient. They told her that if she would not agree to recuse herself in advance -- regardless of whether she was legally or ethically required to do so -- they would block her nomination.

At the time of the February 2 meeting, I and others in the White House believed it was important for the Executive Branch to resist efforts to force nominees to agree in advance to recuse themselves in situations where recusal was not legally or ethically required. We felt that those seeking Ms. Tigert's commitment to recuse herself were tampering with the agency adjudicative process.

So, when Mr. Altman said, without any advance notice, that he was inclined to remove himself from the RTC investigation, without a legal or ethical basis for doing so, I felt that he might create an unfortunate precedent for our Administration and future Administrations.

As White House Counsel, I was concerned about what Mr. Altman was considering doing. But I did not tell him to remain in the matter.

I told him that if he was legally or ethically required to recuse himself, he should do so promptly. Obviously, if Mr. Altman had a disqualifying financial interest, or if he believed that he could not decide the matter impartially, or if his continuing to act created an appearance of favoritism within the meaning of the relevant ethics code -- any of which was a ground requiring recusal -- it would be necessary for him to remove himself. But he had already told me he had received

ethics advice that he did not have a legal or ethical obligation to recuse himself.

So I said, that if recusal was not legally or ethically required, he should consider whether he should remove himself. I also said that, even if he ultimately determined to rely on his staff's recommendation (as he said he would), the fact that his staff knew there would be a review of its recommendations would help to insure the fairness and professionalism of the process. I was particularly concerned about the numerous leaks which seemed to accompany RTC actions.

I concluded by saying to Mr. Altman that, in any event, the decision on recusal was for him alone to make. He said he would give the matter further thought.

The only other discussion I can recall at the February 2 meeting is Ms. Williams asking if the private lawyers for the parties, including the Clintons' lawyers, would be briefed on the statute of limitations process. Ms. Hanson or perhaps Mr. Altman said that they would consider it. On the way out of the meeting, I asked Ms. Hanson if Mr. Ryan's and Ms. Kulka's nominations had been submitted to the White House for clearance, since I could not recall having heard of their nominations, and we were normally consulted before agency nominations

were approved. Ms. Hanson told me they had in fact been submitted to the White House.

February 3, 1994. On February 3, Ms. Hanson faxed me a letter Mr. Altman had received from Congressman Leach urging Mr. Altman to consult an ethics officer concerning recusal. She left a message asking me to phone her. When I returned the call that evening, Ms. Hanson told me that Treasury was continuing to research the ethical issues involved in recusal.

I suggested to Ms. Hanson that whoever was doing the research might find it useful to speak to Beth Nolan. Ms. Nolan was an Associate White House Counsel on my staff who dealt with ethics issues. She is a former ethics Professor at George Washington Law School and is well known and respected for her expertise. Ms. Nolan later told me she did in fact have a discussion with a Treasury ethics official, Dennis Foreman.

I also suggested to Ms. Hanson that, to the extent there might ultimately be some concern at Treasury or the RTC about an appearance of lack of independence of the decision-makers on the Madison/Whitewater investigation, she might take a look at the civil jurisdiction in the recently-appointed Independent Counsel's charter and consider the advisability of the RTC referring these matters to the Independent Counsel.

On February 3, or shortly thereafter, I ran into Mr. Altman in the hallway of the West Wing of the White House. Mr. Altman told me in a brief conversation that he had given the issue more thought and probably would not recuse himself.

Later in February 1994. Later in February, either Mr. Eggleston or Ms. Hanson told me that Mr. Altman would leave the RTC at the end of March when his term expired and that he either could not or would not seek renewal of his appointment. I also believe that Mr. Altman told me in late February, in another brief conversation, that a Washington lawyer, Larry Simons, was likely to be nominated to head the RTC and he hoped Mr. Simon's nomination would be confirmed quickly.

There is one other conversation which I believe will help the Committee to understand that there was no attempt on our part to influence the outcome of the RTC's investigation. In mid- February 1994, one of the lawyers on my staff told me that the RTC had retained Jay Stephens to conduct its investigation of Madison. Mr. Stephens, as you know, had expressed political opposition to the President in the past. When he resigned as U.S. Attorney for the District of Columbia in early 1993, he did so with a political blast at the Administration.

In response to this news, I shook my head in disbelief. I said that the appointment of Mr. Stephens was ridiculous and unfair. I also said that there was nothing we should or would do about it.

The Meetings and Contacts Were Proper

The meetings and contacts I have described have given rise to considerable controversy. In my view, however, they were appropriate. I was acting to facilitate the proper functioning of the Executive Branch and to enable the White House to perform its official duties. I was acting in the pursuit of legitimate, public purposes.

First, with respect to the September 29 meeting, Ms. Hanson provided the White House with notice of a referral that she predicted -- quite correctly -- the White House would be required publicly to address in the near future. Treasury understood that neither the President nor the First Lady was a subject of the referral. They were potential witnesses. There was obviously a concern that a partial or inaccurate leak might lead the uninformed to believe that because the Clintons were mentioned -- or "named" -- in the referral, they were somehow implicated in some improper conduct.

In preparation for these hearings and those in the Senate, I have been questioned about whether I thought Treasury officials had provided the White House with so-called non-public information -- as if there were something illegitimate about an executive agency sharing non-public information with the White House. The White House receives non-public information all the time. The real question is whether this information is being properly transmitted and properly used for an official purpose and not for private gain or other illegitimate purpose.

The White House is required to respond to numerous press inquiries that concern both the official acts and past private behavior of the President and First Family. It is important that the White House be in a position to disseminate accurate information to the public to ensure that spurious or inaccurate allegations concerning the President are dealt with promptly and appropriately. Otherwise, confidence in the President and the Presidency could be undermined without justification. The September 29 meeting furthered this public purpose.

Second, regarding the October 14 meeting, Treasury officials advised us of a press inquiry that they had already received and their plans for responding to it. By providing that information, the Treasury officials were assisting the

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White House in understanding the nature of the press' interest so that the White House could prepare itself to respond to further inquiries. This is a necessary and important public purpose.

Finally, with regard to the February 2 meeting, the information regarding the statute of limitations process was no different from that already provided to a number of members of Congress. In any event, there was no information provided in the February 2 meeting related to RTC procedures that White House lawyers did not already know and would not have been obvious to any experienced litigator.

I have already explained the significant public policy concerns with Mr. Altman's statement that he was considering recusal. It was appropriate to ask Mr. Altman to consider carefully whether he should recuse himself in a case involving the President where Mr. Altman was neither ethically nor legally obligated to do so. In Mr. Altman's case, it was all the more important to urge careful deliberation since he -- and others, such as Ms. Tigert -- were being pressed by the President's political opponents to recuse themselves.

As I have stated, I believed then, and I believe now, that Executive Branch officials and agency heads should not remove themselves from sensitive matters simply because of political advantage or expediency or for their own personal convenience. They should do their duty.

Some will contend that the meetings I described should not have been held because they created an "appearance" of impropriety. I understand that the ethical rules require Government officials to avoid any action that creates the appearance that the law or ethical standards are being violated.

But these same rules require that "appearances" must be judged in accordance with what a reasonable person would believe knowing all the facts and circumstances. The "appearances" are not to be judged simply by whether the conduct could stir controversy or occasion criticism -- perhaps uninformed -- by political opponents or by some in the media.

Consideration of all the facts and circumstances of the contacts I described must include the purposes for these meetings, precisely what was said, and all the public policy issues raised.

I know that there are some who may have different views about the relative importance of the policy issues that were raised by these meetings. As you have heard, I feel very strongly that public servants must do their duty. They should not be able to walk away from their responsibilities, without a legal or ethical basis for doing so.

Others, I know, may feel less strongly about this policy, or may believe that there are other, more important considerations, including political ones.

I respect those different views. But let us be clear. We are talking about legitimate differences of opinion. We are not talking about differences in ethical standards or standards of propriety.

Thank you.

STATEMENT OF THOMAS F. McLARTY, III

U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs

July 28, 1994

Mr. Chairman and Members of the Committee, my name is Mack McLarty. As you know, I am at this time Counselor to the President. Before I joined the administration, I spent the better part of three decades in the private sector. I was Chairman of the Board and Chief Executive Officer of Arkla, one of our nation's largest natural gas companies, and I ran a five generation old family business.

From the date of his inauguration until June the seventeenth, it was my privilege to serve the President as his Chief of Staff. That period includes all the events which are the subjects of these hearings and which Mr. Cutler discussed.

I should say at the outset that President Clinton was determined that the White House cooperate fully with your inquiry, as we did with Mr. Fiske, and that relevant witnesses would appear voluntarily whenever asked to do so. We respect the role of this Committee. We are here today to answer your questions to the best of our ability.

When Lloyd Cutler arrived at the White House, I asked him to review the contacts between Treasury and the White House concerning Madison Guaranty and to report to me and the President on their propriety. Although we appreciate the legal conclusions rendered

by the Special Counsel last month, it was also important to us that Mr. Cutler review and render judgments on the contacts using ethical standards, which are tougher than the legal ones, and do so in hindsight, as difficult and harsh as that sometimes is. We understand that our obligations in the White House are to do our work consistent not only with legal standards but with high ethical and performance standards as well.

The people sitting with me at this table are my colleagues and my friends. But they are far more than that. They are enormously talented people who work impossible hours out of dedication to their country. They are also men and women for whom ethics, integrity and honor are not just words. The standards they set for themselves are, as they should be, the highest in the Nation. I am proud to be here with them, as I have been proud to be their Chief of Staff.

Mr. Cutler's report, as well as the report of the Special Counsel, make a number of points that are important for the Congress and the American people to understand about the so-called Whitewater matter and its handling by the White House staff.

First, nothing happened. No one in the White House attempted in any way to influence the RTC's decision on whether to bring claims against individuals in connection with the failure of Madison. As I understand it, that decision is still pending and will be made in due course.

Second, no White House employee violated any law.

Third, no White House employee violated any applicable ethics rule or regulation.

For me, these were not surprising conclusions, but it is important for the public to know the facts.

I certainly concur with Mr. Cutler's observation that contacts with agencies relating to investigations are best handled through the White House Counsel, who also functions as the White House ethics officer. The President and his staff can and do look to Counsel to determine what contacts can occur, how they should occur, and who should know about them.

I also agree with Mr. Cutler that, especially with the benefit of hindsight, it would have been better if some of these contacts had not occurred. I also agree with the changes he has made to prevent them from occurring in the future.

Finally, Mr. Chairman, I would like to help this Committee keep the Madison\Whitewater matter in perspective.

The Committee is reviewing a period extending roughly from the end of September to the beginning of March. I would like you to know just some of the things the President and his staff were doing for this country during this period.

During this period, the Congress passed and the President signed the Religious Freedom Restoration Act, the Brady Bill, the North American Free Trade Agreement, the Child Protection Act, and the legislation lifting sanctions against South Africa.

The President successfully concluded the GATT agreement, convened the APEC Conference in Seattle, proposed the Partnership for Peace, reinstituted the Super 301 trade powers, and brought our G-7 allies to Detroit for a major conference on jobs. He proposed sweeping health care and welfare reforms, and has brought us to the brink of passing a sweeping, comprehensive anti-crime law.

In other words, the President and his staff, including all the people sitting here, had a lot to do and they did it exceedingly well. While some of them spent time responding to Whitewater, all of them were engaged full time in helping the President accomplish things of real importance.

We are happy to answer your questions. Indeed, in many respects, we welcome them.

At the end of the hearing, though, we are confident that you will conclude, as Mr. Fiske, Mr. Cutler, and the Office of Government Ethics did, that no one did anything wrong -- that we served our President and our country well, and that we need to go back to work.

July 28, 1994

STATEMENT OF CLIFFORD M. SLOAN

House of Representatives
Committee on Banking, Finance and Urban Affairs

Mr. Chairman. my name is Clifford Sloan. I want to thank you for the opportunity to appear today before this Committee.

I have been an Associate Counsel to the President since June of 1993.

In the course of my duties in the White House Counsel's Office, I was contacted by officials of the Department of the Treasury in connection with press inquiries and interest in Madison Guaranty Savings & Loan. These conversations consisted of a brief mention by Jean Hanson, the General Counsel of the Treasury, after a meeting at the White House on a different subject on September 29, 1993; a few subsequent telephone calls from Ms. Hanson in the days thereafter; and a meeting of White House and Treasury officials on October 14, 1993. A few months later, on December 30, 1993, the Comptroller of the Currency, Mr. Eugene Ludwig, also called me briefly concerning Madison.

Mr. Cutler summarized these conversations in his testimony before this Committee on Tuesday. In addition, I recently spent several hours in interviews with both the majority and minority

Committee staff, answering their questions about this matter. And of course I will be happy to answer any questions here today as well.

Before I do, I would like to make just a couple of brief points.

Neither I, nor anyone else in the White House, ever sought to influence, or even to comment upon, the decision to refer the Madison matter to the Justice Department for further investigation. Nor did I or any White House personnel ever seek to influence or comment about the manner in which the referral was worded, or who was mentioned in it.

Likewise, to my knowledge no Treasury or RTC official ever sought or invited any comment by the White House at any time about whether a referral should be made or what form it should take. From the first mention of the Madison referral by Ms. Hanson on September 29, each of these conversations was in the context of actual or potential press interest in the matter.

Thank you.

STATEMENT OF BRUCE R. LINDSEY
Before the
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs

July 28, 1994

Mr. Chairman and Members of the Committee:

My name is Bruce Lindsey. I am an Assistant to the President and Senior Advisor. I am also from Arkansas and have known President Clinton for over twenty-five years. I am therefore the person in the White House who generally handles press inquiries related to Arkansas issues.

I welcome this opportunity to share with this Committee and the American people the facts as I know them concerning issues about which there has been considerable divisive and, in my mind, unfortunate speculation over the past few months. Beginning with the appearance of the first press reports suggesting improper communications between the White House and officials of the Treasury Department, followed by allegations of White House interference in an RTC investigation, and culminating in a grand jury probe conducted by the Special Counsel which concluded that no wrongdoing had occurred, we at the White House have kept our silence. Certainly, after the Special Counsel, Mr. Fiske, was appointed, we believed it was important that we neither do nor say anything that could give rise to the suggestion that we might, in any way, be interfering with or attempting to influence his work. After this prolonged

and sometimes frustrating silence, I am today here to tell you what I know, and to answer your questions about this matter. I am hopeful that this will begin the process of putting tc rest many of the questions, much of the confusion, and all of the rancor surrounding this matter.

In summary, the only communications I had with Treasury Department officials in which the RTC investigation of Whitewater or Madison Guaranty was raised involved no more than their informing me and my colleagues of press inquiries and discussions about how to respond to them. The inquiries began after information about RTC referrals involving Madison Guaranty was leaked to the press. My conversations with Treasury officials centered solely around what the press was reporting and how, if at all, we should respond. It was always my understanding that the Treasury officials were simply passing along what they were hearing from the press. In fact, to this day, I do not know the content of the referrals.

Mr. Chairman, I am not aware of any law, ethical rule, or principle of common sense that suggests that one Administration official cannot alert another official to the contents of a reporter's questions. To suggest that something improper took place here is simply to ignore the facts. Let me briefly state those facts.

In late September or during the first few days of October 1993, I had a short conversation with Associate White House Counsel Cliff Sloan, and perhaps Associate White House Counsel Neil Eggleston, in which I learned that there had been RTC criminal referrals relating to Madison Guaranty and that the Clintons were incidentally mentioned in the referral document, but not as targets or subjects. My understanding was that members of the press were calling the Treasury Department or RTC, apparently because of leaks from the RTC, and asking about the referrals. I assumed that they wanted me to know this information so that I would not be surprised if I received calls from the press about these referrals. I have no notes of this first conversation, but my best recollection is that it was quite brief and that Cliff Sloan alone spoke with me. I recall asking him to keep me informed if he learned anything new.

A few days later, on or about October 4, I received a call from someone outside of the government reporting on other press inquiries regarding the criminal referrals. I was traveling with the President at the time and briefly mentioned this information to him. I did not suggest, nor did the President ask, that any action be taken, and none was.

The next conversation I had about this matter occurred on October 7 or 8, 1993, a few days after my discussion with the President, and was with

both Cliff Sloan and Neil Eggleston. My notes, which have been provided to the Committee, reflect that I was informed in this conversation of specific press inquiries, including information from the press that the apparent criminal referrals included a reference to Arkansas Governor Jim Guy Tucker. I did not have any discussions with the President regarding this conversation.

The next communication I know about between the White House and Treasury on this subject occurred on October 14, 1993. On that date, I and several of my colleagues met with officials from the Treasury Department at the White House to discuss additional press inquiries. This meeting took place after Jack Devore, a press official at the Treasury Department, had received a call from Jeff Gerth of the *New York Times* about the alleged criminal referrals, including a suggestion that the referrals were being "bottled up" in Washington, rather than going to the United States Attorney's Office in Little Rock.
Mr. Devore was seeking guidance on how to respond to this press inquiry. He told us that he had checked and found that the referrals had initially been sent to Washington but that, well before the reporter had inquired, they had been forwarded to the U.S. Attorney's Office in Little Rock. Mr. Devore wished to confirm these facts to the reporter before an incorrect story was written on the subject. He indicated it was standard practice for the RTC to confirm the

existence of a criminal referral. I expressed some surprise at this and suggested that Mr. Devore, rather than confirming the existence of the referrals, should respond to the reporter by stating that whatever had been sent from the RTC had been forwarded to the U.S. Attorney's Office in Little Rock prior to the reporter's inquiry. No one discussed or suggested that any action should be taken to try to influence the matters that were the subject of the RTC referrals. To my knowledge, other than my checking campaign records with regard to one of the questions the reporter was asking, nothing further was done after the October 14 meeting other than Mr. Devore responding to the reporter's inquiry.

In early December 1993, I received faxes from two Treasury Department officials of press-generated Freedom of Information Act requests for Madison documents. These came to me without comment, and I took no action in response to them.

The final so-called White House-Treasury contact in which I was involved occurred sometime in February 1994, and again was precipitated by a press inquiry. A reporter contacted a press officer at the Treasury Department about a meeting between White House and Treasury officials at which there was a briefing on the RTC civil statute of limitations. The reporter said that she understood that, at that meeting, a White House official attempted to

pressure the Treasury Department to give a similar briefing to the private attorneys involved in the matter.

This press inquiry to the Treasury Department was passed along to a White House press official who passed it along to me. Since I had not attended any such White House-Treasury meeting, I called Roger Altman, whom the reporter indicated had attended the meeting, and asked him whether such a meeting had occurred and, if so, what had happened. Mr. Altman told me that there was a meeting in early February at which he and other Treasury officials briefed White House officials on the statute of limitations issue. Mr. Altman told me that a White House official had asked him whether a similar briefing would be given to the private attorneys in the matter. Mr. Altman said that he had checked with an RTC attorney who indicated such a briefing would be given at the appropriate time in the future, but not now. Mr. Altman told me that no one at the meeting instructed him to do anything. I advised Mr. Altman to respond to the press inquiry accordingly, and I took no further action.

I have now informed this Committee of all the White House-Treasury communications in which I was involved. I also have produced my contemporaneous handwritten notes and memoranda relating to these matters, which reflect what I have just recounted.

Before I conclude, let me restate as clearly as I can: none of these conversations involved any effort by anybody to influence the conduct of any investigation. None of them revealed confidential information. They were discussions advising us of reporters' inquiries and about how to respond. Nothing improper occurred.

I will be happy to answer your questions.

TESTIMONY OF MARK D. GEARAN
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs

July 28, 1994

Good afternoon Mr. Chairman and Members of the Committee. My name is Mark Gearan and I serve as an Assistant to the President and Director of Communications in the White House.

I appreciate having the opportunity to appear before you and to answer any questions I can that you may have on the issue currently before the Committee.

As the Director of Communications at the White House, it is my job to provide information to members of the press on the Administration's legislative and policy agenda in the most complete and accurate way possible.

In his statement to this Committee on Tuesday, White House Special Counsel Lloyd Cutler accurately reported the circumstances of a single meeting which I attended briefly on October 14, 1993. My notes of that meeting, which have been provided to the Committee, reflect that its purpose was to discuss press inquiries made to the Treasury Department Press Office by journalists. The meeting was held in White House Counsel Bernard Nussbaum's office.

The portion of the meeting which I attended dealt with information provided to the Treasury Department Spokesman by reporters. No confidential information was imparted at this meeting while I was in attendance. Independent Counsel Fiske has concluded that nothing illegal occurred at this meeting. Mr. Cutler has concluded that nothing unethical occurred at this meeting. That was my understanding at the time of the meeting and it remains so today.

I respect the efforts of this Committee to shed light on this meeting so that the concerns which have been expressed can be addressed.

Thank you.

STATEMENT OF LISA M. CAPUTO

U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs

July 28, 1994

Mr. Chairman, Members of the Committee, Ladies and Gentlemen. I am Deputy Assistant to the President and Press Secretary to the First Lady. I am here today at the Committee's request to answer questions relevant to the Committee's inquiry.

I have been the First Lady's press secretary since January 1993. I served as Mrs. Clinton's press secretary during the 1992 campaign and the Presidential Transition. Prior to joining Mrs. Clinton's staff, I worked as Press Secretary to Senator Tim Wirth of Colorado and Representative Bob Traxler of Michigan. I have attached a more detailed biography to my opening statement for the Committee.

As press secretary, I manage the First Lady's media relations and serve as her spokesperson. This job entails communicating with reporters and others about press coverage of Mrs. Clinton.

Sometime late last fall, I returned a telephone call from a person in the RTC's press office. I do not know the name of the person who called me, but I do recall that it was a man. He told me that the RTC had received inquiries from the press about Mrs. Clinton and Whitewater. He said something to the effect that two television networks were pursuing stories on the subject. I

thanked him for letting me know, and, as far as I can recall, that was the end of the conversation. I did not do anything as a result of this conversation. To the best of my recollection, it is the only contact I have ever had with any representative or employee of the RTC.

Mr. Chairman, as far as I am aware, no one has suggested that there was anything improper about this brief conversation. I am happy to answer any questions that the Committee may have about it.

STATEMENT OF HAROLD ICKES
ASSISTANT TO THE PRESIDENT AND DEPUTY CHIEF OF STAFF

Before the
U.S. House of Representatives
Committee on Banking, Finance
and Urban Affairs

July 28, 1994

Mr. Chairman, and Members of the Committee, I want to thank you for this opportunity to inform this Committee and the American people about the facts concerning contacts between the White House and Treasury Department officials related to Madison Guaranty Savings & Loan. I, like my White House colleagues, have fully cooperated with every inquiry into this matter.

Let me briefly highlight for you the events relating to my involvement in these matters. In so doing, I ask you to remember that my days, like yours, are long and busy; that there were many other matters that I was dealing with at the time; and that it is hard, months later, to separate what I knew at the time the events occurred from what I subsequently learned from press accounts and public discussions of these matters.

I joined the White House staff in January of this year. I am primarily responsible for managing the President's health care initiative, but for a period of time when I first came to the White House, I was responsible for pulling together a working group to coordinate the White House's response to press inquiries concerning what is generically known as "Whitewater."

In late January and early February, as you will recall, Republican members of Congress began making an issue about the statute of limitations expiring with respect to the Resolution Trust Corporation's inquiry into Madison Savings & Loan -- one piece of the Whitewater story. I was aware that certain members of Congress were pressing this issue in an effort to embarrass the President politically.

At about this time, Roger Altman asked to meet with myself and Mack McLarty, who was then the Chief of Staff. To the best of my recollection, he did not specify the subjects that would be discussed. The meeting occurred on February 2, 1994. I attended along with Mr. Altman, Maggie Williams (Mrs. Clinton's Chief of Staff), and three attorneys: White House counsel Bernard Nussbaum and Neil Eggleston, and Jean Hanson, the General Counsel of the Treasury Department.

I cannot remember the specific words anyone spoke, but I recall generally that for most of the meeting, Mr. Altman made a presentation about the procedural options available to the RTC in view of the statute of limitations deadline that was facing the agency in the Madison inquiry. Up until this presentation, I do not recall being aware that Mr. Altman served as acting chairman of the RTC or that he had any particular authority in that role with respect to the Madison investigation. Mr. Altman did not discuss any substantive information about the Madison investigation.

Toward the end of the meeting, Mr. Altman stated that he was considering recusing himself from the Madison matter. I and others present inquired as to why he was considering recusal, and to the best of my recollection, he said it was because he was a personal friend of the President's. I am not an expert on such issues, and I think I expressed my view that this did not appear to me to necessitate his recusal. Others present expressed similar views. But we conveyed to Mr. Altman that the decision was entirely up to him.

At the close of the meeting, Mr. Altman indicated that he would further consider the issue and let us know what he decided. Within a day or two, he informed me that he had decided not to recuse himself.

As you know, the RTC's statute of limitations for civil investigations was extended by statute in mid-February, and the President promptly signed this bill into law. Once that happened, the deadline for any decision concerning Madison -- and the procedural options we discussed at the February 2nd meeting -- were no longer of any relevance.

Following the events of early February, to the best of my recollection, the next time that I discussed issues relating to RTC oversight of Madison with Roger Altman was on the evening before he was scheduled to testify before the Senate Banking Committee. The hearing was on February 24, 1994, so this discussion must have occurred on February 23rd. I don't recall the specifics of the conversation, but generally, I recall Mr. Altman informing me that he was considering, either before or as part of his testimony, announcing his recusal from the Madison matter, and he wanted to know if I had any thoughts on that. I believe I asked him whether any circumstances had changed since early February that would cause him to change his decision not to recuse, and he said they had not. I further believe that I told him it was entirely up to him, but if I had any other thoughts on the subject I would get back to him.

He asked me to call him later that evening when he returned from an event outside the office. Rather than wait, I phoned one of his aides, Josh Steiner, a short while after my conversation with Mr. Altman. I repeated what I had discussed with Mr. Altman and asked Mr. Steiner to convey to Mr. Altman that I had no further thoughts on the subject and that it was up to him whether to announce his recusal the next day. During his testimony, Mr. Altman did not say he was going to recuse himself from the Madison matter.

As you may recall, the news accounts the day after Mr. Altman's testimony focused on his statement at that hearing that he had met with White House officials in early February to discuss the statute of limitations issue with respect to Madison. As a result, the White House was getting many press inquiries about the issue of contacts with Mr. Altman, as well as the fact that he had not recused himself, and we had been attempting to respond to those inquiries.

At some point during that day, February 25, 1994, George Stephanopoulos informed me that he had heard that Mr. Altman had announced that he was going to recuse himself from the Madison matter, and that he had done so in the course of a conversation with the editorial page editor of the New York Times, without notifying the White House in advance of his decision. Mr. Stephanopoulos and I decided to call Mr. Altman immediately to confirm if

that was true. Mr. Altman confirmed these events, and we expressed surprise that he had chosen to announce his recusal to a newspaper editor. We had been caught off guard, especially because we had been fielding questions from the press on these issues.

I am aware that Mr. Steiner's diary reflects that we indicated to Mr. Altman that the President was "furious" about these events. As far as I know, Mr. Steiner was not a party to that phone call. I do not recall making such a statement, and I would not have had any basis for making such a statement because I did not speak to the President between the time I learned that Mr. Altman had recused himself during a conversation with the New York Times, and the time when we called Mr. Altman. In any event, Mr. Altman asked what steps he should take to notify the President, and Mr. Stephanopoulos, I believe, suggested he should write the President a note.

I should also add that at some point in time, I recall briefly informing the President and Mrs. Clinton, in separate conversations, that the February 2nd meeting had occurred, and that Mr. Altman had shortly thereafter decided not to recuse himself. I speak with the President and the First Lady several times a week about a number of matters, and cannot recall the specifics about these conversations or when they took place. I recall that neither of them had any particular reaction to the information; nor did they ask me to take any action with respect to the recusal issue.

I also recall speaking to the President, at some point in time, about the RTC's retention of Jay Stephens. The President expressed concern that such a highly partisan individual could have received such an appointment, but he did not ask me to contact the Treasury or the RTC, or to take any other action with respect to the Stephens appointment. Nor did I take any.

I have outlined for you the essence of any conversations that I presently recall having with Mr. Altman concerning the RTC's inquiry into Madison. There was nothing in any of these contacts that was intended to influence -- or that did have the effect of influencing -- any RTC decision with respect to Madison. As I understand it, Independent Counsel Fiske concluded that there

was nothing illegal about these contacts; and White House Special Counsel Lloyd Cutler has found that there was nothing unethical about them.

I will be happy to answer questions you may have about these events.

OPENING STATEMENT OF W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

Before the
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs

July 28, 1994

My name is Neil Eggleston. I am an Associate Counsel to the President. I started working at the White House in September 1993, just before the events that are the subject of these hearings began.

I have spent a large portion of my professional career in public service. I am proud of that public service, and proud that I have worked in each of the three branches of government. In the late 1970s, I served as a law clerk to two federal judges, including then Chief Justice Warren E. Burger. I then became an Assistant U.S. Attorney in the Southern District of New York. I left that job in 1987 to work as Deputy Chief Counsel of the House of Representatives Select Committee on the Iran/Contra Affair.

As Mr. Cutler's chronology makes clear, I was involved in some of the contacts between the White House and the Treasury Department. As to each of those contacts, I was acting in my official capacity, assisting others in responding to press or Congressional issues.

The first meeting that I attended with members of the Treasury Department occurred on October 14, 1993. That meeting related to press inquiries that Treasury had received about criminal referrals on the Madison matter. Those press inquiries were apparently prompted by detailed leaks from the RTC to the

news media, including the fact that the Clintons' names appeared in the referrals. I do not believe that I learned any information during that meeting that was not prompted by press inquiries. Indeed, leaks from the RTC appeared a few weeks later in articles in the Washington Post and the New York Times. I have no reason to believe that any White House official took any steps to influence the RTC based on the information that the White House received concerning the criminal referrals.

I also participated in the February 2, 1994 meeting with Mr. Altman in the White House. During that meeting, I learned nothing whatsoever about the substance of the RTC civil investigation into Madison. The meeting principally concerned the procedures the RTC would follow in deciding whether to bring civil actions or to seek a tolling agreement to prevent the running of the then-applicable statute of limitations.

With regard to the subject of Mr. Altman's consideration of the recusal issue, I recall that three points were made during that meeting: (1) that if Mr. Altman had a legal or ethical obligation to recuse, he would do so immediately; (2) that regardless of whether he formally recused himself, he was going to be recused de facto since he stated that he would follow whatever recommendation was made to him by the career officials at the RTC; and (3) that the decision of whether Mr. Altman should recuse was entirely up to him.

Finally, with regard to the February 24, 1994 RTC Oversight hearing before the Senate Banking Committee, I participated with others in the White House in an effort to

ensure that Mr. Altman give a full account of the White House/Treasury contacts.

I have met with the staff of this Committee for several hours and discussed my knowledge of the White House/Treasury contacts at considerable length. I am prepared to answer any questions the Members of this Committee may have about this matter.

STATEMENT OF

MARGARET A. WILLIAMS
ASSISTANT TO THE PRESIDENT AND
CHIEF OF STAFF TO THE FIRST LADY

BEFORE THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
U.S. HOUSE OF REPERSENTATIVES

JULY 28, 1994

STATEMENT OF MARGARET A. WILLIAMS

I am grateful to Chairman Gonzalez and the members of the Banking Committee for the opportunity to address you concerning my very limited contact with the Treasury Department in connection with the work of the Resolution Trust Corporation. That contact was confined to a meeting on February 2nd of this year and an encounter with Deputy Treasury Secretary Roger Altman several days later.

But prior to my testimony, I think the Committee might find it helpful to know a little about my professional background and my duties and responsibilities as Assistant to the President and Chief of Staff to the First Lady.

My appointment to President Clinton's staff came after a brief stint with the Clinton-Gore Campaign where I served as Mrs. Clinton's Communications Director. Following my work on the campaign, I served as Transition Director for Mrs. Clinton's move into the White House on January 20, 1993.

I joined the staff of the Children's Defense Fund in 1985 as senior media analyst responsible for developing and overseeing an advertising campaign on teen pregnancy prevention. In 1988 I became CDF's Director of Media Affairs and served on CDF's six member management committee. I worked for the Center on Budget and Policy Priorities developing a media relations program for that organization. I have served as a campaign press secretary for a national and congressional campaign and held a number of media related jobs.

I hold a masters degree from the Annenberg School of Communications at the University of Pennsylvania and a bachelor's degree in Political Science and Urban Studies from Trinity College in Washington, D.C.

As one of seventeen Assistants to the President, I participate, as directed by the Chief of Staff to the President in management, issues, and communications meetings and work groups.

As Chief of Staff to the First Lady, I manage, direct and advise a staff of thirteen who support the activities of the First Lady. Those areas include policy, press relations, White House events and social activities, scheduling and correspondence. Because of Mrs. Clinton's involvement in health care policy, I spend a good deal of time facilitating selected health care administrative and policy issues across White House Departments and the Cabinet.

Late last year, the number of Whitewater press questions began to increase and my staff was required to spend more and more time trying to respond to those inquiries. Let me make it clear that I was not involved in the legal representation of the President or Mrs. Clinton. My activities with regard to Whitewater generally involved addressing management and information concerns related to overwhelming media interest in the matter.

I made a conscious decision that I and other members of the First Lady's staff would not use our time discussing Whitewater with Mrs. Clinton unless we were trying to obtain facts to answer press inquiries -- facts which could not be found elsewhere. I believed that our priority was health care and that we could keep our focus and help her keep her focus by using the time we had with her on health care and on her many official and social obligations.

Let me now address my involvement in the meeting of February 2, 1994. The meeting was placed on my calendar by my executive assistant. She noted in the entry that Mr. McLarty, then Chief of Staff to the President, wanted me to attend a meeting regarding the statute of limitations in his office. This was the only information I had about the meeting prior to joining it.

I had no discussions with Mr. Altman about the issue raised at the meeting prior to the meeting, nor did I have any contact with anyone at the Treasury Department concerning the subject of this meeting prior to it being held.

I joined the February 2nd meeting in progress. Mr. Altman, with whom I had previous contacts as a member of the Administrations's health care team, was speaking to the assembled group.

As I recall, Mr. Altman was explaining a process by which the Resolution Trust Corporation's staff would present to Mr. Altman a recommendation as to whether or not to seek a waiver of the statute of limitations from the President and Mrs. Clinton in connection with the RTC's investigation of an Arkansas bank. The significance of this for my office was that if and when a waiver were sought it was sure to generate a new wave of press inquiries which my office, in conjunction with the rest of the White House, should be ready to respond to.

Mr. Altman went on to explain that he might not be the official to whom his waiver issue would be presented. In this context he raised the issue of recusal from the process he was describing. He then explained that if he recused himself, a member of the RTC staff would make the final decision. He also stated that in any case, if he did not recuse himself he intended to follow the RTC staff recommendation, whatever it might be. I took him to mean

that he did not see any need to overrule the RTC staff and that they would decide the proper way to discharge their duties.

I then expressed my personal reaction to what Mr. Altman had said, questioning why he would recuse himself if he intended to follow the staff recommendation. It seemed to me by accepting the staff recommendation, no one would challenge his integrity. I recall Mr. Nussbaum responding to my statement by saying it was a decision that Mr. Altman would have to make.

I do not have a clear recollection of the rest of the meeting. It lasted for approximately 45 minutes. I left the meeting when it was over. I took no action other than to make a mental note to be alert to events on this issue as they unfolded.

Several days after the meeting on February 2nd, I received a call from Mr. Altman telling me that he had decided not to recuse himself and asking if I could gather a few White House staff members so he could make his announcement. I do not recall if Mr. Altman specified what staff members, however, I did call the White House Counsel's office and reached Mr. Nussbaum or Mr. Eggelston, (I can't recall which). I called Mr. Ickes and Mr. Stephanopoulos. Mr. Altman stopped by my office in the West Wing shortly thereafter and spoke briefly to the individuals that had gathered in my office and hurried away to another appointment.

That concludes my prepared remarks and I welcome any questions the Committee might have.

PREPARED STATEMENT OF GEORGE R. STEPHANOPOULOS
BEFORE THE HOUSE BANKING COMMITTEE

JULY 28, 1994

Mr. Chairman and Members of the Committee:

My contacts with Treasury officials respecting matters which are the subject of these hearings are essentially limited to two brief telephone conversations, both of which occurred on February 25, 1994.

The first occurred with Josh Steiner, Treasury Chief of Staff, concerning Roger Altman's decision to announce his recusal from decisions concerning Madison Guaranty. Mr. Steiner was my regular point of contact at Treasury for obtaining information that affected Administration policy. In the course of that conversation I asked about the decision to hire former United States Attorney for the District of Columbia Jay Stephens -- a vocal and persistent political opponent of the President -- to handle the RTC inquiry of Madison. I was puzzled at how he could be hired given his obvious inability to be impartial and I asked how that decision was made, anticipating that press inquiries concerning Stephens' hiring would ensue. As Mr. Cutler testified yesterday, I "blew off steam" based on my belief that Mr. Stephens had, and has, a conflict of interest -- that he could not conduct an impartial inquiry. Mr. Steiner informed me that the decision had been made by an independent board. I took no further action regarding the issue.

I believe later that day, I had a conversation with Harold Ickes and Roger Altman during which the subject of his recusal was discussed, specifically as I recall, that he had informed a New York Times editor that he had decided to recuse himself. I was concerned that because of the manner in which he had chosen to announce this decision, the Administration would, for a time, be maintaining inconsistent positions with the public on the issue. I suggested that Mr. Altman write the President a personal note as a courtesy explaining his decision. I took no further action concerning this issue.

STATEMENT OF JOHN D. PODESTA
Before the
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs

July 28, 1994

Mr. Chairman and Members of the Committee,

My name is John Podesta. I am the White House Staff Secretary, a position I have held since Inauguration Day, January 20, 1993. My principal duties involve managing the paperflow going to and from the President.

Earlier in my career, I spent more than nine years as Staff Counsel on two Senate Committees -- the Judiciary Committee and the Committee on Agriculture, Nutrition and Forestry. As a result of my Capitol Hill experience, I have, from time to time, been asked at the White House to work on legislative and Congressional matters. It is in this context that my connection to the matter before this Committee took place.

On, or perhaps just before, February 14, 1994, I was asked by Mack McLarty and Pat Griffin, the Director of White House Legislative Affairs to work on upcoming hearings involving RTC matters. Mr. Griffin had recently joined the White House staff and was concentrating his time and attention on passage of the President's legislative program, principally Health Care Reform.

In anticipation of upcoming RTC Oversight Board hearings, we expected questions on Madison Guaranty to be raised -- some fair, and some posed merely to embarrass the President and slow down his legislative program. My task, as I saw it, was to analyze what was likely to take place at the hearings, and to recommend ways to ensure that the hearings were fair and balanced. This assignment was in addition to my regular duties, and did not consume the majority of my time. As best I can recall, this is a summary of what occurred over the following days.

On February 15, I met with Mike Levy, Assistant Secretary of the Treasury, and discussed the expected RTC Oversight Board hearing in the Senate Banking Committee. Mr. Levy briefed me on the composition and functions of the RTC Oversight Board. During the remainder of that week, Mr. Levy and I had several telephone conversations concerning the hearing. We never discussed the underlying investigation of Madison, nor did I discuss that subject with anyone else at Treasury or the RTC. Mr. Levy and I did briefly discuss the fact that Roger Altman would need to be prepared to answer questions about recusal in light of the fact that Ricki Tigert, our nominee to Chair the Federal Deposit Insurance Corporation, had been pressured on recusal during her confirmation hearings. I did not try in any way to influence the substance of Mr. Altman's answer on the subject of recusal. My discussion with Mr. Levy only went to the fact that Mr. Altman needed to be prepared to respond to questions on this subject.

In the several days before the hearing, I also spoke by telephone on two or three occasions to Joshua Steiner, Secretary Bentsen's Chief of Staff. At this time, it is difficult for me to separate these conversations or to remember them with precision. I believe I initiated the first call to ask Mr. Steiner to encourage Secretary Bentsen to take a prominent role at the hearing. Again, this was to ensure that the hearing was broadly focused on our Administration's overall handling of the S&L cleanup, and to contrast that record with the record of previous Administrations.

About this time I became aware that Mr. Altman had met on February 2 with White House staff. I believe I raised with Mr. Steiner the fact that Mr. Altman probably would be asked a question about whether he had consulted with the White House on the Madison matter, and that he needed to be able to discuss the February 2 meeting in response to such a question. I did not try to influence the substance of Mr. Altman's response. Mr. Steiner told me that Mr. Altman planned to put in his opening statement the fact that he intended to leave the RTC when his Vacancy Act term expired at the end of March, which I passed along to others in the White House.

In the several days following Mr. Altman's February 24 testimony, I spoke by telephone to Mr. Steiner on three or four occasions. On February 25, Mr. Steiner told me that Mr. Altman had recused himself from Madison matters. Mr. Steiner also told me about the procedures the RTC went through in hiring Jay Stephens, the former Republican U.S. Attorney, to pursue RTC civil claims arising out of the Madison failure.

Finally, following a meeting on March 1 at the White House at which Mr. Nussbaum, Mr. Klein, Mr. Eggleston, Mr. Sloan, Mr. Lindsey and I discussed Mr. Altman's testimony, I spoke with Mr Altman about the possible need to supplement his testimony on three points -- (i) how the February 2 meeting was arranged; (ii) the fact that recusal was discussed at the February 2 meeting; and (iii) whether anyone from the RTC had advised the White House of the criminal referrals involving Madison.

Mr. Altman and I had, what, in my view, was a constructive conversation on the three points, which resulted the next day in Mr. Altman's letter supplementing the record concerning the fall meetings. Mr. Altman later sent a letter on the recusal point. I had no subsequent conversations with Treasury or RTC personnel that related in any way to Madison Guaranty.

That concludes my prepared remarks. I look forward to answering your questions.

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

March 31, 1994

John E. Ryan
Deputy Chief Executive Officer
The Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Ellen B. Kulka
General Counsel
The Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan and Ms. Kulka:

I am in receipt of the two RTC letters of March 30, 1994 and would like to make the following points.

While I have made no assertion or implication that either of you are responsible for RTC decisions made last fall, my concern is that efforts were made to jeopardize the independence of the regulatory system at that time and that certain reorganization decisions recently made may impinge on the independence of the RTC's investigations division. For perspective, I have noted and you do not contest that:

1) It was RTC-Washington that within two days of receipt of criminal referrals from the Kansas City office visited the White House;

2) It was RTC Washington that objected to the content of the referrals, and shortly after their receipt, attempted to establish an unprecedented change of procedure related to reviewing then existent and future Madison referrals;

3) Shortly after, a senior Kansas City criminal investigator was removed from the case;

4) Then in early February, officials from RTC-Washington visited Kansas City where the message was communicated that senior RTC officials in Washington wished to claim Whitewater did not cause any losses at Madison.

Nothing in your response disputes the occurrence of these events. With regard to the statement "that senior officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses to Madison," you state, "we are quite sure that neither of us has given any such instructions to RTC staff." I appreciate this perspective. However, it is a point of fact, not conjecture, that RTC attorney April Breslaw told a senior criminal investigator in the Kansas City office that, "Ryan and Kulka, the 'head people,' would like to be able to say that Whitewater did not cause a loss to Madison," as reflected in the attached notes from the taped conversation of February 2, 1994.

With regard to your implicit acknowledgement that RTC-Washington disagreed with criminal referrals developed at the regional office, it should be stressed that even though these referrals were sent to Justice exactly as investigators had proposed them, it is not the case, as you suggest, that internal staff disagreements in the Washington vs. regional office context are common. The fact is that it is virtually unprecedented for RTC-Washington to attempt to influence the content of a criminal referral developed by a regional office in the way RTC-Washington attempted. It was only because of the courageous refusal of the Kansas City office to modify their content that the referrals were sent untampered to the Department of Justice. This decision in Kansas City presumably represented a consensual leadership decision, not simply a "junior staff" approach as your letter implies. In this regard, there is no indication whatsoever that the referral information reflected anything except the highest professional standard.

As for documentation, it is always a matter of judgement as to what to release publicly. We made a careful effort to release nothing that affected the prosecutorial strategy of the Special Counsel. In fact, we carefully culled documents in our possession with the intent to withhold anything that could affect prosecutorial discretion. We even redacted previously unreported information that may have related to prosecutorial strategy. If the material has shed an embarrassing light on government policy and policy makers, we can only say that the documents speak for themselves.

With regard to your statement "you requested a particular document from the RTC last week even though it was apparently already in your possession," please be informed that when the request was initially made I did not have this document in my possession. Here it might also be pointed out that the document you objected to was fully described in a prior Washington Post story of November 11, 1993, a story which did not originate from my office. To assert that the public release of a document already widely reported "could have a deleterious effect on [y]our investigations," is simply not credible.

So that there is no misunderstanding, I support certain decisions made under your leadership at the RTC. I am pleased that the RTC has hired outside counsel to advise the agency and that it has requested its own inspector general to reexamine issues surrounding the failure of Madison. I am also pleased that you have indicated your intent to cooperate fully with Special Counsel Fiske.

However, I remain concerned at the intransigence of RTC-Washington concerning document production and the recent reorganization effort which appears to reduce markedly the independence of regional RTC investigation units. I am particularly concerned about the new rules designed to take away regional independence that have been imposed in recent weeks as reported in the March 30, 1994 Kansas City Star (copy enclosed). The Star states: "For the first time the RTC criminal investigators, including those currently investigating Madison, are under supervision of lawyers in the agency's Professional Liability Section." Also reported are concerns of RTC employees that this change in procedure will politicize the criminal referral process, create potential conflicts of interest and be the "death of the RTC investigations division." Generally, there is a case for reorganizing any federal bureaucracy at any time. However, the timing and substance of the structural change raises questions that relate more to political independence than bureaucratic efficiencies.

As demonstrated in the remarkable independence of the San Francisco regional OTS office in its dispute with Washington authorities in the Keating matter, and as reflected in Kansas City's courageous investigation of Madison, it would appear that decentralized regional offices are more immune to political influence than Washington bureaucracies. Centralization of decision making carries in this circumstance apparent and unfortunate political overtones.

Sincerely,

JAMES A. LEACH
Ranking Member

JL:bt

enclosures (2)

Notes from the conversation between RTC Senior Criminal Investigator L. Jean Lewis and FDIC Attorney April Breslaw on February 2, 1994, from approximately 3:50 p.m. until 4:35 p.m.

- April stated that "the people at the top" keep getting asked about Whitewater, which seems to have become a catch all phrase for Madison and it's related investigations. She said that eventually "this group" is going to have to make a statement about whether or not Whitewater caused a loss to Madison, but the fact that Whitewater had no loan at Madison provided less potential for a loss. April stated very clearly that Ryan and Kulka (?), the "head people", would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is that so far no one has been able to say that to them. She felt like they wanted to be able to provide an "honest answer", but that there were certain answers that they would be "happier about, because it would get them off the hook."

- April felt that it would have been difficult to determine exactly what happened with the Whitewater account, because so many checks had gone in and out of the account, and made a reference to the end resulting netting itself out. She asked about Greg Young's work papers on the Maple Creek Farms reserve for development analysis, and how it didn't seem to have any apparent tie to Whitewater. I concurred that it didn't have any legitimately defined tie, which is precisely why it was included in the referral.

- She inquired about the $30,000 check to Jim McDougal from Whitewater in 5/85, and about the disposition of the funds. I explained the transaction as I know it: the $30,000 had been converted to a MGS&L cashier's check, which was subsequently endorsed by [redacted] and deposited to Riggs National Bank. I explained that when the check was force paid, the Whitewater account was overdrawn by over $28,000 which was then subsequently covered by the payment of a $30,000 bonus from MFC to Jim McDougal, deposited directly to Whitewater on McDougal's orders.

- She asked how we could get to a clear cut answer as to whether or not Whitewater caused a loss to Madison. I stated that, as far as I am concerned, there is a clear cut loss. I also stated that any attempt to extract Whitewater as one entity from the rest of the McDougal controlled entities involved in the alleged check kite will distort the entire picture. I further pointed out that I would produce the answers that were available, but that I would not facilitate providing "the people at the top" with the "politically correct answers just to get them off the hook".

- She asked questions about the specifics of the checks going through the Whitewater account. I stated that it appeared that the majority of the checks written out of the Whitewater account during the window time frame were going to other financial institutions to make loan payments. I also said that the referral focused only on a short time frame, but that if that same research were conducted for a two year period, it was my belief that the losses to Madison from the Whitewater account alone would easily exceed $100,000, given that $70,000 had gone out of the account during the six month window time frame. I further added that the end loss result from the entire scam, using all 12 companies/entities, would be hundreds of thousands of dollars in what were essentially unauthorized loans.

- I stated that if she wanted me to tell her, unequivocally, that Whitewater didn't cause a loss, I could not do that. I could only reiterate the allegations contained in the referral, which are based on fact, and that it is my opinion and belief that Whitewater did, in fact, cause a loss to Madison because of the amount of the unauthorized loans that McDougal made, through the check kite, to entities in which he was a primary party and beneficiary. I also pointed out that this ultimately benefited his business partners - the same business partners that knew they had real

estate ventures that were not cash flowing, but that also knew their mortgages and/or notes were somehow being paid. I pointed out that these business partners are intelligent individuals, the majority of them being attorneys, who must have concluded that McDougal was making the payments for their benefit. I posed the question to her, if you know that your mortgages are being paid, but you aren't putting money into the venture, and you also know the venture isn't cash flowing, wouldn't you question the source of the funds being used to your benefit? Would you just assume that your partner was making these multi-thousand dollar payments out of the goodness of his heart? Wouldn't you wonder even more if you knew that your business partner's main source of income, an sbl, was in serious financial difficulty, which by 1985 was fairly common knowledge?

We discussed the initiation of the MGSL investigation, and how evidence of the check kite came to light. I explained that after reviewing a series of checks, all of which noted "loan" in the memo field, I discerned a pattern that looked like a check kite, and proceeded to trace funds through the various accounts, which is a standard investigations procedures. The end result was the referral alleging a massive check kite. I also advised April that I had been told by both the U.S. Attorney's office (Mac Dodson), and the FBI (Steve Irons) that this was a highly prosecutable case of check kiting. I also told her that I disputed the declination of that referral on the basis of "insufficient information". She commented that "that's what Grand Juries are for", and I pointed out that it generally seemed to be the policy of the U.S. Attorney to agree to open a case before they would start Grand Jury proceedings. I also noted that I found the treatment of that particular referral by the Justice Department to be highly unusual. This concluded our discussion.

Thrift investigators criticize effort to streamline RTC

Some say new rule putting them under charge of agency's civil lawyers raises conflict issue.

By MIKE McGRAW and JEFF TAYLOR
Staff Writers

A new rule that lawmakers hoped would give the government more time to scrutinize Madison Guaranty Savings & Loan — the failed Arkansas thrift at the center of the Whitewater scandal — is drawing heavy flak from some thrift investigators.

Last month, the Resolution Trust Corp. received a two-year extension on the time it has to file civil fraud actions against failed savings and loans. The reform, which was opposed by the Clinton administration last year, applies to all failed thrifts but takes on added urgency because of the Whitewater investigation.

Without the extension, the RTC would have had to file civil charges against Madison Guaranty by Feb. 20.

But as part of that broad effort to streamline the RTC, criminal investigators this week began reporting to a branch of the agency that has been accused by investigators in Kansas City and elsewhere of stalling the Whitewater investigation.

For the first time, the RTC's criminal investigators, including those currently investigating Madison, are under supervision of lawyers in the agency's Professional Liability Section.

The change was intended to correct RTC management problems raised in recent congressional hearings, but several agency sources claim that the PLS comprises the "political arm" of the RTC. "This is the death of the RTC investigations division," warned one senior agency criminal investigator.

Other RTC sources say the move at least is a potential con-

★ Wednesday, March 30, 1994 The Kansas City Star A-7

streamline RTC

flict of interest. They point out that a PLS lawyer pursuing a civil case against a thrift official could be in the position to send a criminal referral to the Justice Department if the civil case were not settled — an action some RTC lawyers viewed as a form of extortion.

Tom Burnside, a former PLS lawyer now in private practice in St. Louis, said traditionally there was a clear wall separating criminal investigators from the civil lawyers at PLS.

Anne Freeman, an RTC spokeswoman in Washington, said agency officials would not respond to claims that lawyers in the Professional Liability Section might be in a position to impede investigations for political reasons.

The dispute between investigators and PLS lawyers, who pursue civil claims against officials of defunct thrifts, came to a head recently when Kansas City investigators claimed the PLS lawyers and others pressured them to alter or suppress findings in the Whitewater case.

94 1:59 KANSAS CITY STAR

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 30, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

We wish to comment on your March 24, 1994 statement before the U.S. House of Representatives as it relates to the RTC's handling of Madison Guaranty. Furthermore, we are concerned that the RTC's ability to recover money for the taxpayers may be compromised by unauthorized and premature disclosure of active investigative information.

By way of background, I became Deputy CEO of the RTC on January 4, 1994. Ellen B. Kulka became General Counsel on January 17, 1994. Neither of us are political appointees. No pressure has been exerted by the Treasury, the White House, or any other source in the Executive Branch concerning the performance of our responsibilities with respect to Madison Guaranty or Whitewater since either of us joined the RTC.

Most of the events cited in your statement occurred before we joined the RTC and we have no first-hand knowledge of them. However, we do feel compelled to point out one or two facts in the documents you disclosed that we believe put a somewhat different light on matters than what you cast. While we believe that any comment about criminal referrals should be avoided, the rush to disclose confidential documents and to obtain information which is partial at best from junior staff has led to substantial misinformation being disseminated to the public. First, the overriding fact is that referrals were made exactly as the investigators had prepared them irrespective of whether there were internal staff disagreements about them or not. We would also observe that, based on our short tenure, internal staff disagreements at the RTC are not uncommon. Second, you stated that "...A senior Kansas City criminal investigator was removed from the case.." What you failed to point out--or perhaps were

not aware of--is that the attorney in Kansas City with whom the investigators had disagreements was also removed from the case at the same time.

As a general matter, it is clearly inappropriate for a government agency to publicly discuss referrals made to the Justice Department regarding possible criminal violations because such discussions could undermine the Department's ability to prosecute the case if the facts are determined to warrant prosecution. As we have indicated to you on numerous recent occasions, the RTC follows this policy. Disregarding this policy, you have demanded information regarding such matters. As early as Thursday of last week, you publicly released documents and internal memoranda which were obtained from employees of the RTC who were not authorized to disclose them. As you may recall, you requested a particular document from the RTC last week even though it was apparently already in your possession. While you stated in your request to the RTC that special counsel Fiske did not object to the release of documents to the Congress, our continuing dialogue with Mr. Fiske about the release of documents and about the specific document in question verified our understanding that he believes, as we do, that such a release would be inappropriate and could have a deleterious effect on our investigations. We, therefore, denied your request and conveyed the substance of our conversation with Mr. Fiske to your staff before your comments on Thursday. We were surprised to see the document in the materials appended to your statement which was supplied to the press.

With respect to events that are attributed specifically to us, you state "... officials from RTC Washington visited Kansas City to pass on the message that senior officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses to Madison.." While we do not know precisely what was said or the context in which it was interpreted, we are quite sure that neither of us has given any such instructions to RTC staff. In recognition that it is rarely possible to prove something didn't happen, we simply wish to be judged by our actions in the performance of our responsibilities. Those actions taken by the RTC during our tenure include: first, the reopening of the Madison investigation in light of the extension of the statute of limitations and additional information which has become available; second, the request that the Office of Inspector General review the RTC generated report on the Rose Law Firm as well as the billings of that firm with respect to Madison; third, the retention by the Legal Division in February 1994 of Pillsbury, Madison & Sutro to serve as outside counsel to help with the investigation; and fourth, the full cooperation the RTC has given to special counsel Robert Fiske.

When the RTC has completed its investigation and taken appropriate action, a full report on this matter will be made to the U.S. Congress. We fully expect to be judged by our actions at that time. In the meantime, we believe all parties concerned would be ill-served by the premature disclosure of incomplete and fragmentary data.

Finally, we are quite concerned about the future implication of the encouragement given to RTC staff over the unauthorized disclosure of confidential information. Such disclosures not only can impair the RTC's ability to pursue recoveries for the taxpayer but also could compromise the financial privacy of any citizen whose only misdeed was doing business with a savings and loan that failed. Our attempts to protect the RTC's legal and fiduciary duties in this regard, and to speak consistently on an extremely sensitive matter is inappropriately characterized as "gagging".

We have made all information requested by Mr. Fiske's staff available to him and will continue to cooperate to the fullest extent possible. We have made substantial amounts of information available to your staff and the staffs of others in Congress. To the extent consistent with our duty to complete an investigation and make sure it is not compromised, we will continue to cooperate with Congress in a manner consistent with our understanding of our duties.

Sincerely,

John S. Ryan
Deputy CEO

Ellen B. Kulka
General Counsel

RTC

RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

March 30, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

This is in response to your letter dated March 23, 1994, in which you requested access to all records pertaining to Madison Guaranty. The basis for this request is the House of Representatives' decision on March 22nd instructing the House leadership to design a format for hearings pertaining to Madison and Whitewater. Based on this decision, you have requested the Madison documents in order to "prepare for the upcoming hearings." Your letter further indicates that Special Counsel Fiske has told you that he does not object to the disclosure of records which are related to his investigation "other than White House documents."

While we are aware of the House's action several days ago, it is our understanding that the procedures for such a hearing have not been finalized, nor has the House determined which Committee will hold the hearing. Similarly, we have not been informed of any action on behalf of the House Banking Committee to reschedule Thrift Depositor Protection Board Oversight hearings. Consequently, we believe that it is inappropriate for the RTC to respond to document requests in preparation for hearings until we have been notified by the proper officials.

At this time we must decline to provide access to any records that would interfere with investigations related to Madison Guaranty. In addition, we are greatly concerned that disclosure of information voluntarily to a party without subpoena authority could constitute a waiver of claims of privileges applicable to this information. This is an additional reason for the RTC to wait until the House determines how it will proceed in this area.

Honorable Jim Leach
Page 2

Although the RTC cannot respond to your request, we will continue to work with your staff to make available to you all information that can be made public. If you have any questions, please let me know.

Sincerely,

John E. Ryan
Deputy CEO

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WASHINGTON, DC 20515-6050

February 3, 1994

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. [See the attached memo.]

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did

not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

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on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

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(202) 225-4247

July 27, 1994

The Honorable James A. Leach
The U.S. House of Representatives
2186 Rayburn Building
Washington, D.C. 20515

Dear Mr. Leach:

You have previously relayed to me a conversation between you and Independent Counsel Robert Fiske in which Mr. Fiske stated that the Committee could receive testimony addressing the circumstances surrounding a conversation between Jean Lewis and April Breslaw on February 2, 1994 without compromising the Independent Counsel's investigation. You assured me that you intended to abide by any request made by Mr. Fiske as to the permissible scope of such testimony. I, too, have assured Mr. Fiske that the Committee will not take any action that could interfere with, hinder, or compromise his investigation.

It is my intention to invite Ms. Lewis and other employees of the RTC to testify before the Committee as part of its hearing into the Washington phase of the so-called Whitewater affair. I have asked Mr. Fiske to describe as precisely as possible the permissible parameters of such testimony in order to honor our commitment to him. A copy of that letter is attached.

Sincerely,

Henry B. Gonzalez
Chairman

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2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

July 27, 1994

Mr. Robert B. Fiske, Jr.
Office of the Independent Counsel
Two Financial Centre Suite 134
10825 Financial Centre Parkway
Little Rock, Arkansas 72211

Dear Mr. Fiske:

As you know, the Banking Committee has begun its hearing on the Washington phase of the so-called Whitewater affair pursuant to the House Resolution 394 and the bipartisan House Leadership agreement.

In your July 7, 1994 letter to me you state that you, "have completed [your] investigation into the circumstances surrounding a conversation between Jean Lewis and April Breslaw on February 2, 1994." You further state that testimony from various Resolution Trust Corporation employees, including Ms. Lewis, with respect to certain matters concerning the Kansas City Office could potentially compromise your investigation.

It is my intention to invite Ms. Lewis and perhaps other RTC employees to testify before the Committee as part of its hearing on the Washington phase. In order to comply with the House Resolution 394 and honor my assurance to you that the Committee would not take, "any action that might interfere with, compromise or otherwise hinder your investigation...", please define and describe as precisely as possible those matters as to which Ms. Lewis and other RTC employees can testify without compromising your investigation.

I look forward to your prompt reply and thank you for your cooperation.

Sincerely,

Henry B. Gonzalez
Chairman

THE WHITE HOUSE

WASHINGTON

July 28, 1994

The Honorable Henry B. Gonzalez
Chairman
U. S. House of Representatives
Committee on Banking, Finance
and Urban Affairs
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

Dear Chairman Gonzalez:

In your letter of June 27, 1993 (a copy of which is attached) you asked the White House to provide documents relating to contacts between the White House and Treasury Department or Resolution Trust Corporation regarding Madison Guaranty and Whitewater. We promptly provided the Committee with those documents. As I explained during my testimony on Tuesday, July 26, we redacted from the documents material that related to other matters and was not responsive to your request.

During my testimony, various minority members raised the issue of redactions generally, and the redactions made on a March 1, 1993 memorandum from Harold Ickes to Mrs. Clinton, in particular. As I said yesterday, we redacted from the March 1 memorandum those portions of the document that were not responsive to the Committee's request. The memorandum has two substantive paragraphs. We redacted the first paragraph. It does not relate to contacts between the White House and Treasury or RTC regarding Madison Guaranty and Whitewater. It simply describes three documents that are attached to the memorandum. None of the documents attached to the memorandum relates to contacts between the White House and Treasury or RTC regarding Madison Guaranty and Whitewater and they are redacted. The attachments are (1) an eight page FDIC report dated February 17, 1994 finding that the retention of The Rose Law Firm by the FDIC did not involve a conflict of interest by the law firm, (2) a seven page RTC report on the same subject, dated February 8, 1994 and (3) a seven page legal memorandum dated February 28, 1994 analyzing the reports and other matters. The FDIC and RTC reports were made public at or before the RTC oversight hearing held on February 24, 1994, by the Senate Committee on Banking, Housing and Urban Affairs. None of these documents describes, refers to, or was provided during a White House-Treasury contact.

I trust this additional information will finally resolve any outstanding concerns regarding the White House document production.

Sincerely yours,

Lloyd N. Cutler
Special Counsel to the President

Letters to Chairman Gonzalez from Nicolas Calio, Assistant to President Bush for Legislative Affairs

In May 1992, Chairman Gonzalez invited several members of President Bush's White House staff to testify at the Banking Committee's hearings on the Banca Nazionale del Lavoro (BNL) scandal. Each White House staff person invited to testify had played key roles in Bush Administration decisions related to the scandal.

In response, Mr. Calio cited "longstanding tradition" as a reason for refusing to make the President's personal staff available. Despite Chairman Gonzalez's legitimate requests, Mr. Calio repeated the Bush White House's refusal in four separate letters to the Chairman.

The obstinance of the Bush White House is starkly contrasted by President Clinton's willingness to make available all members of his personal staff for testimony at the Committee's Whitewater hearings.

THE WHITE HOUSE
WASHINGTON

May 4, 1992

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MAY 6 1992
Banking, Finance & Urban Affairs Committee

Dear Mr. Chairman:

I am writing in connection with your recent letter to Stephen Danzansky, Chief of Staff to the Secretary of Education, requesting that he testify before your committee on May 21, 1992.

In your letter, you request that Mr. Danzansky testify about matters occurring during his tenure as Deputy Assistant to the President and Director of the Office of Cabinet Affairs. Due to longstanding tradition, and in accordance with the doctrine of separation of powers, members of the President's personal staff, who participate in the deliberative process through which Executive policy is developed, traditionally have not testified before Congress.

Thank you for your understanding in this matter.

With best regards,

Sincerely,

Nicholas E. Calio

Nicholas E. Calio
Assistant to the President
for Legislative Affairs

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and Urban Affairs
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE
WASHINGTON

MAY 21 1992

May 20, 1992

Dear Mr. Chairman:

This responds to your letters of May 1 to Richard Haass, Special Assistant to the President for National Security Affairs, as well as your most recent letter of May 15 to Stephen Danzansky, former Deputy Assistant to the President for Cabinet Affairs. As I indicated to you in my letter of May 4, it is the long-standing practice of the Executive Branch to decline requests for testimony by members of the President's personal staff. For that reason, I must decline your request for personal testimony by Dr. Haass and your renewed request for testimony by Mr. Danzansky.

However, given the unusual circumstance presented here, the Administration is prepared to work with you to develop an alternative, mutually acceptable mechanism by which these officials can be made available to members of the subcommittee. We believe the Administration acted reasonably and properly during the period prior to the Persian Gulf conflict. We are anxious to ensure that the subcommittee has an accurate picture of Administration policy and actions.

Sincerely,

Nicholas E. Calio

Nicholas E. Calio
Assistant to the President
for Legislative Affairs

The Honorable Henry B. Gonzalez
Chairman
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs
Washington, DC 20515

THE WHITE HOUSE
WASHINGTON

May 26, 1992

RECEIVED
MAY 26 1992
Committee on Banking, Finance & Urban Affairs

Dear Mr. Chairman:

This responds to your letters of May 4, 1992, to C. Boyden Gray, Counsel to the President, and Nicholas Rostow, Special Assistant to the President for National Security Affairs and Legal Adviser to the National Security Council. As I stated to you in my letter of May 20 regarding two prior requests from you for testimony from White House officials, it is the long-standing practice of the Executive Branch to decline requests for testimony by members of the President's personal staff. For that reason, I must decline your request for personal testimony by Messrs. Gray and Rostow.

As I indicated to you in my May 20 letter, however, the Administration is prepared in view of the unusual circumstances presented here to work with you to develop an alternative, mutually acceptable mechanism for making available to Members of the Committee the White House officials whose testimony you have sought. We believe the Administration acted reasonably and properly during the period prior to the Persian Gulf conflict. We are anxious to ensure that the Committee has an accurate picture of Administration policy and actions.

Sincerely,

Nicholas E. Calio

Nicholas E. Calio
Assistant to the President
for Legislative Affairs

The Honorable Henry B. Gonzalez
Chairman
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs
Washington, D.C. 20515

THE WHITE HOUSE
WASHINGTON

May 28, 1992

Dear Mr. Chairman:

This responds to your letters of May 26, 1992 to C. Boyden Gray, Counsel to the President, and Nicholas Rostow, Special Assistant to the President for National Security Affairs and Legal Adviser to the National Security Counsel.

As I stated in my letter of that date, it is the longstanding practice of the Executive Branch to decline requests for testimony by members of the President's personal staff. That policy is not a Bush Administration innovation, but rather has been the view taken by Democratic and Republican Administrations alike. To list but a few examples: Truman Presidential Assistant John Steelman declined to appear before a subcommittee of the House Committee on Education and Labor investigating the administration of Taft-Hartley. W. DeVier Pierson, Associate Special Counsel to President Johnson, declined to testify before the Senate Judiciary Committee in connection with Justice Fortas' confirmation. Alan Tracy, Special Assistant to President Reagan for Agricultural Trade and Food Assistance, declined an invitation to testify before a Subcommittee on Agricultural Research, Conservation, Forestry and General Legislation.

As I also stated in my letter of May 26, 1992, the Administration is prepared in view of the unusual circumstances presented here to work with you to develop an alternative, mutually acceptable mechanism for making available to Members of the Committee the White House officials whose testimony you have sought. Indeed, I believe your staff and mine were planning to meet yesterday to discuss this and other matters, but that your staff was unable to meet, apparently for scheduling reasons.

Finally, I would point out that in addition to the offer we have made concerning these particular officials, Administration members from numerous different agencies have provided voluminous responses to your Committee's numerous requests for information; that ten Administration members, including the Deputy Secretaries of State, Treasury and Agriculture, spent a total of seven hours at a hearing of your Committee on these issues last week; and that pursuant to your request, the Administration will be making available witnesses from five Cabinet Departments and the Central Intelligence Agency for your hearing tomorrow so as to allow you to obtain information about the matters regarding which you have written to Messrs. Gray and Rostow.

In short, given all the efforts we have made to provide you with information on these issues, the notion that the Administration is engaged in some kind of "attempt[] to block [y]our inquiry" cannot be seriously entertained. As I have previously indicated, the Administration believes it acted reasonably and properly during the period prior to the Persian Gulf conflict, and we are anxious to cooperate with the Committee to assure that it has an accurate picture of our policy and actions. That cooperation is not facilitated by unfounded suggestions, such as those made in your letter, that application of a longstanding policy regarding testimony by White House staff somehow flows from "an effort to conceal" matters with respect to which we have been, and remain desirous of being, entirely forthcoming.

Sincerely,

Nicholas E. Calio

Nicholas E. Calio
Assistant to the President
for Legislative Affairs

The Honorable Henry B. Gonzalez
Chairman
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs
Washington, D.C. 20515

cc: The Honorable Chalmers P. Wylie

THE WHITE HOUSE

WASHINGTON

July 27, 1994

The Honorable Henry B. Gonzalez
Chairman
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs
One Hundred Third Congress
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

Dear Chairman Gonzalez:

Yesterday I was asked a series of questions relating to a meeting between the President and Governor Jim Guy Tucker on October 6, 1993. I have made inquiries about that meeting and would like to report to the Committee what I learned.

The meeting took place at the request of Governor Tucker who was in Washington to meet with the Arkansas congressional delegation. It began at 3:45 p.m. and lasted about 40 minutes. I am attaching a Memorandum prepared for the President in advance of this meeting, which shows that the purpose of the meeting was for the President to accept a copy of Governor Tucker's proposal for locating a Defense finance and accounting servicing facility in Arkansas. (Governor Tucker's proposal was declined by the Department of Defense.)

Mr. Keith Mason, Deputy Assistant to the President for Intergovernmental Affairs, was present for the entire meeting. He has confirmed that the subjects of Whitewater, RTC criminal referrals or Madison Guaranty were never discussed. I have reviewed Mr. Mason's detailed notes of this meeting and find no mention of anything even remotely related to the RTC investigation. According to Mr. Mason's recollection of the meeting and his notes, in addition to the Defense facility, Governor Tucker also raised issues related to Medicaid funding, an FDA research facility, interstate highway financing, National Guard cutbacks, and NAFTA.

I trust this further elaboration will put any questions about this meeting to rest.

Sincerely yours,

Lloyd N. Cutler

Lloyd N. Cutler
Special Counsel to the President

THE WHITE HOUSE

WASHINGTON

October 5, 1993

MEETING WITH GOVERNOR TUCKER

DATE: October 6, 1993
TIME: 3:45 pm
LOCATION: Oval Office
FROM: Marcia L. Hale
Dawn M. Friedkin

I PURPOSE

You will meet with Governor Tucker to accept a copy of a proposal for locating one of the planned Defense finance and accounting servicing facilities in Arkansas.

II BACKGROUND

Governor Tucker is in town for a meeting with the Arkansas delegation. He requested a meeting with you to deliver a copy of a proposal for locating one of the planned Defense finance and accounting servicing facilities in Arkansas at Camp Robinson. The Governor sent the original report to Secretary Aspin on October 4.

Drake Keith and Cecil Alexander are accompanying the Governor to Washington and the White House. They do not expect to join you and the Governor in the Oval Office. However, you may want to invite them in at the end of the meeting for a photo.

You should be aware that the Governor will be unable to join you on your conference call with governors on Thursday morning, because he will be enroute back to Arkansas. You may want to use this opportunity to discuss the governors roles in the NAFTA effort.

III. PARTICIPANTS

The President
Governor Tucker
Marcia L. Hale
Drake Keith (to join for photo only)
Cecil Alexander (to join for photo only)

IV. PRESS PLAN

White House photo only.

V. SEQUENCE OF EVENTS

The President will greet Governor Tucker and accept the proposal in the Oval Office. At the end of the meeting The President will invite Drake Keith and Cecil Alexander in for a photo.

VI. REMARKS

None required.

RTC Matters File

THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON

NUSSLE EXHIBIT 1

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE. If the reader of this message is not the intended recipient or an employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail. Thank you.

FAX COVER SHEET

Date : MARCH 24 1993

To : BERNIE NUSSBAUM

Fax # : 456-6279

From : Roger C. Altman

Number of pages - including this cover page 3

Message :

Please call 202/ 622-0402 if you do not receive all pages

Mr. Altman's private fax number is : 202/ 622-0404

RTC North Central Region
CLIP SHEET
Monday, March 9, 1992

Selected News Articles — Public Affairs

CLINTON DEFENDS REAL-ESTATE DEAL

Says He Lost at Least $25,000 and Did Nothing Improper

THE NEW YORK TIMES
March 9, 1992

By GWEN IFILL
Special to The New York Times

AUSTIN, Tex., March 8 — Gov. Bill Clinton of Arkansas said today that he and his wife, Hillary, did nothing improper when they entered a real-estate partnership with the owner of a savings and loan institution that was subject to state regulation.

Speaking to reporters as he campaigned through Texas today for votes in the Democratic Presidential primary on Tuesday, Mr. Clinton said that an article about the partnership in The New York Times on Sunday was misleading and that he and his wife lost more than $25,000 in the joint venture.

"There was no impropriety," Mr. Clinton said of the partnership with his former aide James B. McDougal to develop land in the Ozarks.

Financial Exposure

The partnership began in 1978, when Mr. Clinton was Arkansas's Attorney General. "I was not yet Governor," he said today, and Mr. McDougal "was not in any financial institution."

"The article seems to imply that my wife and I had no financial exposure," he went on. "There's nothing could be further from the truth.

"We were jointly and severally liable for more than $200,000 worth of debt," Mr. Clinton said. He termed the relationship "purely private investment" that was "nothing but a big money loser for me."

The Times article raised questions about the Clintons' relationship with Mr. McDougal and Whitewater Development, a corporation that planned to turn the 200 acres of Ozarks property into lots for vacation homes.

Records obtained by The New York Times were incomplete, but the article questioned the Clintons' involvement in the venture at a time when Mr. McDougal's savings institution, Madison Guaranty, was subject to regulation by the state securities commission.

The article also said that on their tax returns in 1984 and 1985 the Clintons improperly deducted at least $4,000 in interest payments on bank loan payments Whitewater made for them.

Lawyers Agree To Pay Big Fine In S.& L. Case

By STEPHEN LABATON
Special to The New York Times

WASHINGTON, March 8 — A leading New York law firm today agreed to pay $41 million to settle Government accusations that it had improperly withheld damaging information about its client, a large savings association whose failure has epitomized the savings and loan industry's disaster.

Shortly before settling the $275 million lawsuit that the Government filed six days ago, lawyers at the firm, Kaye, Scholer, Fierman, Hays & Handler, insisted again that they did nothing improper in representing Charles H. Keating Jr. and his Lincoln Savings and Loan Association of Irvine, Calif. They were forced to settle, they said, by the Government's move to freeze the firm's assets, which put the firm perilously close to collapse.

The Government said this evening that the settlement would "assure that the firm's activities that gave rise to the case are never again repeated."

The quick settlement, in which Kaye, Scholer neither admits nor denies the Government's accusations, is expected to have a profound impact on a wave of lawsuits the Government is preparing to file in the next few weeks against lawyers, accountants and savings executives from scores of institutions seized in March 1990. The statute of limitations on those cases runs out this month.

"It is unlikely that it is the last time we will use such an order preserving assets," said Harris Weinstein, chief counsel to the Office of Thrift Supervision, the agency that regulates the savings industry and that filed the lawsuit along with the Justice Department.

Freezing assets is a tactic that the Government has traditionally reserved

Continued on Page C3, Column 4

[illegible]
The deductions saved them some $1,000 in taxes. Mr. Clinton said he and his wife were reviewing their tax records and would repay the amount, which his lawyer, Susan P. Thomases, described as an "honest error."

Before the Times article was published, the Clintons turned down requests for interviews, instead retaining lawyers to answer questions about the enterprise. The lawyers were interviewed for several hours in person and several hours by telephone and provided 15 to 20 documents.

In an interview in The Arkansas Democrat Gazette today, Mr. McDougal was quoted as saying that the Clintons did nothing improper and that neither he nor his savings and loan got preferential treatment from state regulators.

In a separate statement at Mr. Clinton's news conference today, Sam Heuer, Mr. McDougal's lawyer, said he was "appalled and affronted by the allegations and reckless disregard of the facts by The New York Times and its reporter, Jeff Gerth."

He said that any suggestion that Mr. McDougal used money from Madison Guaranty to subsidize the Clintons' portion of the joint partnership "is not only false but probably actionable by Mr. McDougal."

Mr. Heuer said in the statement that there was "no link between Whitewater Development Company and Madison Guaranty Savings and Loan."

The Times article cited records showing that in 1984, when Whitewater's account at Madison was overdrawn, money was deposited to make up the shortage from Madison Marketing, an affiliate of the savings and loan that derived its revenue from the institution.

The article also called attention to Mr. Clinton's appointment of Beverly Bassett Schaffer, a lawyer in a firm that had represented Madison Guaranty, as State Securities Commissioner at a time when the institution faced possible closure by the state.

Today Mr. Clinton said his appointing Mrs. Schaffer was not a way of aiding Mr. McDougal. "I had no contact with her whatsoever on this and neither did my wife have any contact," the candidate said.

Mrs. Schaffer, in a statement also released by the campaign, concurred.

NUSSLE EXHIBIT 2

TO: BERNIE NUSSBAUM

FR: ROGER ALTMAN

(2 pages follow)

RTC North Central Region
CLIP SHEET
Monday, March 9, 1992

Selected News Articles — Public Affairs

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Freezing assets is a tactic that the Government has traditionally reserved

Continued on Page C5, Column 4

N000008

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Portion of Mr. Cutler's testimony from July 26, 1994 hearing

CONGRESSMAN NUSSLE
(FOR THE RECORD) PAGE 130

Mr. CUTLER. No. They were simple interviews.

Mr. NUSSLE. Okay. How were they recorded? What was your procedure that you used personally or professionally to record these interviews so that they could be kept for record-keeping?

Mr. CUTLER. The group who assisted me, Ms. Sherbourne and Ms. Cheston, among others, took notes.

Mr. NUSSLE. Was there an audio recording, a video recording?

Mr. CUTLER. No. These were informal interviews.

But may I remind you that the Treasury Inspector General took full depositions of all of those people, and in the exchange arrangement we have had with them since this inquiry started, we have given the Treasury Inspector General access to all of the White House people, so he has recorded interviews with them; and we have been allowed to see the transcripts of the interviews that the Inspector General conducted with the Treasury people.

Mr. NUSSLE. One of the things that we have discovered in your interviews with potential witnesses is that there have been some discrepancies with the testimony that you gave us today. I am not suggesting that descrepancy is on your part, I am just suggesting that there may be some holes, some differences of opinion, maybe some different facts that have been expressed.

What we would like to know is, would it be possible for you to provide the records of those interviews, the notes, or the transcripts that you received from Treasury so that we could more fully investigate on our behalf and prepare for the witnesses that will be coming?

Mr. CUTLER. These are Treasury transcripts, and you will have to deal with them.

With respect to our own notes, they are what are known as lawyer's work product, just as your staff have their notes of their interviews that that they have conduct; and lawyer's work product, including the impressions we have formed in the course of the interviews, are usually protected, and we would assert that.

Mr. RUSSLE. Isn't it my understanding that the privilege that you have, attorney-client in this situation, the client can in fact waive and that, in other words, the President can waive this privilege and allow us to see those notes so that we can, you know, in a sense of cooperation, find out and get to the bottom of this?

Mr. CUTLER. There are several--there are two different privileges. I don't know if you want to use up your time on this. There is a lawyer-client privilege which only the clients can waive; there is a lawyer's work product privilege which the lawyer himself can assert; there is a reporter's privilege--nobody asks reporters for their notes

of interviews, I take it.

With respect to the discrepancies you mentioned, I dare say, Mr. Nussle, if you were asked three months, two months after meeting with some other Members of this committee, what happened, who said what, each of you would have a somewhat different recollection of what happened.

Mr. NUSSLE. Again, I would just state, I am not suggesting that those discrepancies are related to you personally, sir; I am only relating that--thank you, Mr. Chairman.

The CHAIRMAN. Mr. Flake?

Mr. FLAKE. Thank you very much, Mr. Chairman.

Mr. Cutler, I am going to ask you the names of certain persons and ask if they gave their full cooperation if, indeed, you interviewed them. If you did not, you may state so.

Bernie Nussbaum, did you interview him? Did he give you his full cooperation, and did he try to influence you in any way?

Mr. CUTLER. He gave us his full cooperation; he did not try to influence us.

Mr. FLAKE. Mr. Bruce Lindsey, did you interview him, and did he give you his full cooperation, and did he try to influence you?

Mr. CUTLER. Who did you mention this time?

EXCERPT FROM ROBERT B. FISKE'S REPORT (Submitted by Hon. Pryce)

Columbia, we are precluded by Rule 6(e) of the Federal Rules of Criminal Procedure from publicly disclosing anything more than the results of the investigation. We will submit a full report of this investigation to the Division of the Court of Appeals for the District of Columbia referred to in Title 28, United States Code, Section 49, pursuant to Title 28, Code of Federal Regulations, Section 600.2(b)(1).

In reaching this conclusion, this Office is not determining anything other than that the evidence does not justify a criminal prosecution. We express no opinion on the propriety of these meetings or whether anything that occurred at these meetings constitutes a breach of ethical rules or standards. Prior to the issuance of our grand jury subpoenas, Secretary of the Treasury Lloyd M. Bentsen, Jr. had asked the Office of Government Ethics ("OGE") to conduct an investigation into these meetings. That investigation was suspended, at our request, when we began our investigation. We have advised Secretary Bentsen that we have completed our investigation, and we understand that the OGE investigation will now go forward.

Robert B. Fiske

ROBERT B. FISKE, JR.
Independent Counsel

June 30, 1994

WITNESS BIOGRAPHIES

THOMAS F. (MACK) McLARTY, III

Thomas F. (Mack) McLarty, III, served as White House Chief of Staff from January 20, 1993 until July, 1994. He currently serves as Counselor to the President.

Prior to joining the Clinton Administration, Mr. McLarty served as Chairman of the Board and Chief Executive Officer of Arkla, Inc., one of the nation's largest natural gas companies. Mr. McLarty was first elected to the Arkla Board in 1974, was named President of the company in 1983 and became Chairman and CEO in 1985.

In addition to his work for Arkla, Mr. McLarty helped transform a five-generation family business, McLarty Companies, into one of the South's largest transportation companies, with interests ranging from truck leasing to automobile dealerships.

Mr. McLarty was elected to the Arkansas House of Representatives in 1970 where he served one term. Mr. McLarty was treasurer for the successful gubernatorial campaigns of David Pryor and Bill Clinton.

Mr. McLarty received his B.A. from the University of Arkansas. He is married to the former Donna Cochran. They have two sons -- Mark, a Georgetown University student, and Franklin, a student at New York University.

THE WHITE HOUSE

WASHINGTON

George Stephanopoulos

George Stephanopoulos is currently the Senior Advisor to the President for Policy and Strategy.

During the 1992 presidential election Mr. Stephanopoulos served on the Clinton/Gore Campaign as the Deputy Campaign Manager and Director of Communications. He oversaw polling, policy, scheduling, press relations and media operations. He also ran the now famous "war room" with political strategist, James Carville.

Before joining President Clinton's campaign Mr. Stephanopoulos was the Executive Floor Manager to House Majority Leader, Richard A. Gephardt. In 1988 he was Deputy Communications Director for the Dukakis/Bentsen presidential campaign. Previously, he was Administrative Assistant for Representative Edward Feighan of Ohio.

George Stephanopoulos received his Masters in Theology at Balliol College, Oxford University, England, where he studied as a Rhodes Scholar. He obtained his AB in 1982 from Columbia University and graduated Summa Cum Laude in Political Science.

Mr. Stephanopoulos grew up in Cleveland, Ohio with two sisters and a brother. His mother and father, who is a Greek Orthodox priest, currently reside in New York City. He is 33 years old.

Bruce R. Lindsey

Bruce R. Lindsey has served as Assistant to the President and Senior Advisor since January 20, 1993. During 1993, he also served as the Director of the Office of Presidential Personnel. During the Clinton/Gore campaign, Mr. Lindsey served as the National Campaign Director.

Prior to joining the Clinton Administration, Mr. Lindsey practiced law with the Little Rock, Arkansas law firm of Wright, Lindsey, & Jennings. In addition, Mr. Lindsey served as Legislative Director to Senator David Pryor from January, 1979, to November, 1981; as Legal Counsel to Arkansas Governor David Pryor from January, 1975, to June, 1976; and as Legislative Assistant to Senator J. William Fulbright from June, 1970, to December, 1974.

Mr. Lindsey received his BA with honors from Rhodes College, Memphis, Tennessee in June, 1970, and his JD from Georgetown University Law Center, Washington, DC, in December, 1974. He is married to Beverly Haddox Lindsey and has two daughters: Sarah, 17, and Katherine, 16.

HAROLD ICKES DEPUTY WHITE HOUSE CHIEF OF STAFF

Harold Ickes was a partner and 16 year member of the New York law firm of Meyer, Suozzi, English & Klein, P.C., specializing in labor and election law. He has served as a consultant to Democratic political campaigns since the 1960's, when he first entered politics in civil rights activities to increase voter registration in the South.

Mr. Ickes served as Counsel to the Dinkins for Mayor campaigns, as Special Counsel to the Democratic National Committee during Ron Brown's tenure as DNC chair during the general election campaign. He was manager of the New York State Clinton for President campaign in 1992 and manager of the Democratic National Convention on behalf of the Clinton-Gore campaign in July of that year. Ickes went on to serve as Deputy Director of the Clinton-Gore Presidential Transition.

The son of President Franklin Roosevelt's Secretary of Interior, Harold Ickes' introduction to practical politics came during the civil rights movement of the 1960's when, after graduating from Stanford University, he joined the Congress of Federated Organizations and worked to increase voter registration in Vicksburg, Mississippi. In the fall of 1964, Ickes enrolled in Columbia University Law School, but the following summer he continued his civil rights work with the Congress for Racial Equality in Louisiana.

Over the course of the mid to late 1960's, Ickes continued his studies at Columbia and took his first job on Capitol Hill, as a legislative assistant to New York Congressman William F. Ryan. In 1968, Ickes became co-campaign manager of the McCarthy for President campaign in New York. Also that year, Ickes served as organizer of the Commission on the Democratic Selection of the Presidential Nominees. Over the course of the 1970's, Ickes served on a number of other national and state campaigns including: Muskie for President (1972), Basil Paterson for Lt. Governor (NY State), Carey for Governor (NY State, 1975), Bayh for President (1976), and Udall for President (1976). A well known expert on the rules governing the Democratic Presidential nomination process and national party convention procedures, Ickes served as Deputy Director of the Rules Committee for the Kennedy for President campaign in 1980, as Deputy Director of the Rules Committee for the 1984 Mondale for President campaign and as Director of the Rules Committee for the Jackson for President campaign in 1988. Prior to joining the law firm, Ickes served for several years with the New York City management consulting firm of Boone, Young & Associates.

Ickes' wife, Laura Rose Handman, is a partner in the Manhattan law firm of Lankenau, Kovner & Kurtz. They have a eight year old daughter Charlotte Jane. Born in Baltimore, Maryland in 1939, Ickes graduated from Sidwell Friends School, Stanford University (1964) and earned his J.D. from Columbia University Law School in 1971.

THE WHITE HOUSE

WASHINGTON

MARK D. GEARAN

Mark D. Gearan is Assistant to the President and Director of Communications. He served as Deputy Chief of Staff from January 20th to June 1993.

Before coming to the White House, Gearan had served as the Deputy Director of the transition office of President-elect Bill Clinton and Vice President-elect Al Gore. During the 1992 campaign, he was then Senator Gore's Campaign Manager.

A native of Gardner, Massachusetts he graduated from Gardner High School in 1974, and then went on to Harvard College where he received his Bachelor of Arts cum laude in Government in 1978. He earned his J.D. in the evening program from Georgetown Law School in 1991.

Upon his graduation from Harvard in 1978, Gearan became the Press Secretary for Congressman Robert F. Drinan's re-election campaign, and that same year served as Press Secretary for a Massachusetts ballot initiative. In late 1978, Mark worked for one-year as a newspaper reporter for the Fitchburg Sentinel.

In 1980, Gearan joined Congressman Berkley Bedell's congressional staff, working again as a press secretary and Chief of Staff from 1980 to 1983, running his successful 1982 re-election campaign.

In 1983, Gearan became the Director of the Massachusetts Office of Federal Relations for Governor Michael Dukakis, where he served until 1987 when he left to join the Dukakis presidential campaign. Gearan was the headquarters Press Secretary for the Dukakis campaign. After the 1988 election, he returned to run the Massachusetts office in Washington, D.C. until 1989.

In late 1989, Governor Dick Celeste of Ohio chose Gearan to become the Executive Director of the Democratic Governors' Association (DGA).

Gearan is married to Mary Herlihy Gearan, whom he met when they both worked for Congressman Drinan. The couple has one daughter, Madeleine, who was born in March of 1992.

(Jan 1994)

John D. Podesta

John D. Podesta serves in the Clinton Administration as Assistant to the President and Staff Secretary. He also serves as a member of the Council of the Administrative Conference of the United States.

Before joining the Administration he was President and General Counsel of Podesta Associates, Inc., a Washington, D.C. government relations and public affairs firm.

He has had extensive Capitol Hill experience, serving as Chief Counsel to the Senate Committee on Agriculture, Nutrition, and Forestry and as Chief Minority Counsel to the Senate Judiciary Committee Subcommittees on Patents, Copyrights and Trademarks; Security and Terrorism; and Regulatory Reform.

He served as a trial attorney in the Department of Justices's Land and Natural Resources Division and as a Special Assistant to the Director of ACTION, the federal volunteer agency.

He is a 1976 graduate of Georgetown University Law Center and a 1971 graduate of Knox College.

CLIFFORD M. SLOAN

Clifford Sloan has served as Associate Counsel to the President since June 1993. A native of Chicago, he graduated from Harvard College in 1979. He then worked as Executive Assistant to Congressman Sidney R. Yates (D., Ill.) for two years before leaving to attend Harvard Law School, where he received his J.D. in 1984. After clerking for U.S. Court of Appeals Judge J. Skelly Wright and Supreme Court Justice John Paul Stevens, Sloan served as an Associate Counsel in the Office of Independent Counsel (Iran-Contra) in 1987-88 and as an Assistant to the Solicitor General at the Justice Department in 1989-91. Sloan also worked at the Washington, D.C. law firm of Onek, Klein & Farr in 1988-89, and at the Washington D.C. office of Mayer, Brown & Platt in 1991-93. Sloan is married to Mary Lou Hartman, a television producer, and has two daughters, ages 5 and 3, and a two-week old son.

W. NEIL EGGLESTON

W. Neil Eggleston is Associate Counsel to the President. He was appointed to that position in September 1993.

Prior to joining the White House staff, Mr. Eggleston had been a partner at the Washington, D.C. law firm of Howrey & Simon since 1988.

From 1979 to 1980, Mr. Eggleston served as a law clerk to the Honorable Warren E. Burger, Chief Justice of the United States Supreme Court. He then became an Assistant U.S. Attorney in the Southern District of New York, where he remained until 1987. From 1987 to 1988, he served as Deputy Chief Counsel of the House Iran/Contra Committee.

MARGARET A. WILLIAMS

Maggie Williams is Assistant to the President and Chief of Staff to the First Lady.

Prior to joining the Clinton/Gore Presidential Campaign, she was a doctoral candidate at the Annenberg School for Communication at the University of Pennsylvania.

Williams is the former Communications Director for the Children's Defense Fund and served as Director of Media Relations for the Center on Budget and Policy Priorities.

She was deputy press secretary of the Democratic National Committee in 1979. In 1980 she managed the DNC's convention press office and in 1982 served as campaign press secretary for Congressman Robert Toricelli (D-NJ). Williams joined the Democratic National Committee convention staff in 1984 and managed backstage and podium activities. She also served as an aide to Congressman Morris K. Udall (D-AZ).

Williams is a former board member of the Communications Consortium and Independent Action, the political action committee founded by Udall.

A native of Kansas City, Missouri, Williams graduated from Trinity College in Washington, DC. She received an M.A. degree from the Annenberg School.

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LISA M. CAPUTO

Lisa Caputo is Deputy Assistant to the President and Press Secretary to the First Lady.

Caputo was Press Secretary to Hillary Rodham Clinton during the 1992 Clinton-Gore general election campaign and the Presidential Transition.

Prior to joining Mrs. Clinton's staff, Caputo was the Director of Vice Presidential Media Operations at the 1992 Democratic National Convention. She served as Press Secretary to U.S. Senator Timothy E. Wirth from 1989 to 1992.

Caputo was the National Issues Press Secretary for the 1988 Dukakis-Bentsen presidential campaign. She was Press Secretary and Federal Grants Coordinator to U.S. Representative Bob Traxler from 1987-1989.

Caputo received a Master of Science in Journalism with highest distinction from Northwestern University's Medill School of Journalism. She is a magna cum laude graduate of Brown University where she holds a Bachelor of Arts in French and Political Science.

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